

المرجع	IOR/L/PS/10/24
العنوان	ملف رقم ٦٦٤ لسنة ١٩٠٤ "مناطق شبه الجزيرة العربية الخاضعة للحكم العثماني: أوضاع الأشخاص تحت الحماية البريطانية"
التاريخ/ التواريخ	١٩٠٤-١٩١١ (ميلادي)
لغة الكتابة	الإنجليزية و الفرنسية في اللاتينية
الحجم والشكل	مجلد واحد (٢٠١ ورقة)
المؤسسة المالكة	المكتبة البريطانية: أوراق خاصة وسجلات من مكتب الهند
حق النشر	المُلكية العامة

حول هذا السجلّ

يحتوي هذا الملف على مراسلات بين مسؤولين بريطانيين بشأن الأشخاص تحت الحماية البريطانية (من ولايات الهند المحلية بشكل رئيسي) في الأراضي التابعة للدولة العثمانية. وتشمل الموضوعات التي تجري مناقشتها في الملف التمثيل القنصلي للرعايا الهنود البريطانيين الفقراء في ولاية بغداد؛ ووضع البلوش المقيمين في البصرة؛ ومنح التأشيرات للحجاج الأفغان في بلاد الرافدين (العراق)؛ طلب من الشيخ عمر عبد الله بصار، وهو من سكان الحُديدة في اليمن، بأن يسجّل كشخص تحت الحماية البريطانية؛ ووضع الكشميريين المقيمين في مدينة كربلاء. تدور أغلب المراسلات بين مسؤولين من وزارة الخارجية ومكتب الهند وحكومة الهند. يحتوي الملف أيضًا على نسخة من رسالة باللغة الفرنسية مرسلة من السفير العثماني في لندن إلى وزارة الخارجية بخصوص أوضاع مواطني أفغانستان وبلوشستان في الدولة العثمانية (الورقتان ٨١-٨٢). يشتمل المجلد على فاصل يسرد العام التي فُتح فيه ملف الموضوع، عنوان الموضوع، وقائمة مراجع المراسلات الواردة فيه مرتبة حسب العام. يوجد هذا الفاصل في أول المجلد.





ملف رقم ٦٦٤ لسنة ١٩٠٤ "مناطق شبه الجزيرة العربية الخاضعة للحكم العثماني: أوضاع الأشخاص تحت الحماية البريطانية" [أمامي] (٤٠٦/١)

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ملف رقم ٦٦٤ لسنة ١٩٠٤ "مناطق شبه الجزيرة العربية الخاضعة للحكم العثماني: أوضاع الأشخاص تحت الحماية البريطانية" [صلب] (٤٠٦/٣)

















(1)







(3)

Previous File
P.

POLITICAL AND SECRET DEPARTMENT.

P.
664
1904.

Subject:

Turkish Arabia:- Status of British protected persons natives of Indian States, Baluchis, Afghans &c.

This file contains the following papers:—

YEAR.

1904. P. 664 2303 2612 1905 P. 300 379 3101 1906 P. 3253 3290

1907. P. 2696 1909 P. 2921 3691 4493 4152

1910. P. 2968 2967 3193 3476

1911. P. 990 357 4650 1553

Memoranda

If any papers are removed from this File, please inform the Political Registry.





Register No. 4650

Minute Paper. Political ~~Secret~~ Department.

Letter from I.O. Dated 17 November 1911. Rec. 18

	Date.	Initials.	SUBJECT.
Under Secretary	20 Nov	AHH	Turkish Arabia
Secretary of State			Fee registration of poor British Indian subjects in Baghdad Vilayet. Instructions issued in sense suggested by the G of I
Committee	21		
Under Secretary	22	AHH	
Secretary of State			
Council	27		

Copy to India

COPY TO INDIA 8 DEC 1911 SECRETARY'S No 49

FOR INFORMATION.

Seen Pol. Comm. 28 NOV 1911

SEEN COUNCIL. 5 DEC 1911

Previous Papers:—





4650

4571
1911.

In any further communication on this subject, please quote
No. 42412/11.
and address:—
The Under-Secretary of State,
Foreign Office,
London.

Foreign Office
November 17, 1911.

18 NOV 1911

Sir:-

I am directed by Secretary Sir E. Grey to acknowledge the receipt of your letter of the 26th ultimo, transmitting copy of correspondence with the Government of India on the subject of the proposed free registration of indigent British Indian Subjects at Bagdad.

His Majesty's Ambassador at Constantinople, has been requested to instruct His Majesty's Consul General at Bagdad on the lines suggested by the Government of India.

I am,

Sir,

Your most obedient,

humble Servant,

W Langley

The Under Secretary of State,
India Office.

18 NOV 1911
INDIA OFFICE.



Register No. 1683

Political Department.

Letter from Govt of India No. 106 Dated 12 September 1911.
Rec. 16 October

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	18 Oct		Turkish Arabia
Secretary of State			Proposed fee registration of poor British Indian subjects in Baghdad Vilayet. Views of G. of I. as to steps to be taken to ascertain inability to pay the fee.
Committee	20		
Under Secretary	25		
Secretary of State			
Council			

Copy to India (of letter to F.O.) 27 Oct. 1911. Secy 43

FOR USE BY DEPARTMENTS ONLY.

Dft. to F.O. forwarding with expression of concurrence.

25 Oct. 1911. Dft. appd. Mr. Connes

26 October – Letter to Foreign Office

Previous Papers:— 3071



Boom

7 5

Dft. 7.0

26 October 1911

Sir,

With reference to your letter of the 20th May 1911, No. 17171, as to the proposed free registration of poor British Indian subjects in the Baghdad Vilayet, I am directed to enclose, to be laid before the S. of S. for Foreign Affairs, copy of correspondence with the Govt of India on the subject.

To G. of I., No. 48 (Political), 26 June 1911
From - - No. 66 (For. Dept), 28 Sept -

The Marquess of Crewe concurs generally in the recommendations made in paragraph 2 of the Govt of India's letter of the 28th Sept. 1911 as to the steps to be taken to ascertain in each case the inability of such persons to pay the fee, before granting registration gratis.

Approved Pol Com'ee.
25 OCT 1911

HM A. Law W. T.





1683

No. 106 of 1911.

GOVERNMENT OF INDIA.

FOREIGN DEPARTMENT.

GENERAL.

To

The Most Hon'ble the MARQUIS of CREWE, K.G.,
His Majesty's Secretary of State for India.

Simla, *the 28th September 1911.*

My Lord Marquis,

We have the honour to acknowledge the receipt of Your Lordship's Political despatch No. 48, dated the 30th June 1911, regarding free registration of poor British Indian subjects in the Baghdad Vilayat. The views of the Government of India are invited as to the reply which should be returned to the enquiry made by the Secretary of State for Foreign Affairs as to what steps should be taken to ascertain in each case the inability of such persons to pay the fee, before granting registration gratis.

2. After consulting our Political Resident in Turkish Arabia we are of opinion that it would be sufficient if the registering Consular Officer, before granting free registration, were to hold an enquiry into the property, means of livelihood, number of family, and general circumstances of the applicant, and reduce the result of his investigations to writing. He might also be required to enter on the certificate of registration itself, in the place where the stamp is ordinarily affixed, the words "Gratis after due enquiry", followed by his signature, as proof of a proper investigation having been held.

We have the honour to be,

My Lord Marquis,

Your Lordship's most obedient, humble servants,

Hardinge of Penshurst.
O'Moore Creagh
Guy Fleetwood Wilson
[illegible]
R W Carlyle
H Butler
[illegible]
W H Clark.





(9) 7

1911.

SIMLA.

FOREIGN DEPARTMENT.

GENERAL.

No. 106, DATED THE 28TH SEPTEMBER 1911.

Letter to His Majesty's Secretary of State for India.

Proposed free registration of poor British Indian subjects in the Baghdad Vilayat.

Foreign Office Press—No. 1236—12-11-11—25.





(10) 8

Register No. 3571

Political Department.

Letter from F.O., No. 7177 Dated 20 / Rec. 22 May 1911.

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	30 May	EAGH	Turkish Arabia
Secretary of State			Proposed free registration of poor British Indian subjects in the Bagdad Vilayet.
Committee	1 June		[Issue of Ottoman Order in Council, 1910]
Under Secretary	3	EAGH	
Secretary of State			
Council 7 table	13		

Copy to F.O. (of desp. to India) 6/7/11

FOR USE BY DEPARTMENTS ONLY.

Dft. despatch to India forwarding papers and asking for views

13 June 1911. Dft. appd. Pol Committee

21 June. appd Council

30 June Desp. to India, Pol

Previous Papers:—
4309/09
1677/09





MINUTE.

The whole question of the registration of British Indian subjects in the Bagdad Vilayet was discussed by the late Consul-General at Bagdad (Col. Ramsay) in a letter dated the 21st June 1909 (flagged "A" on No. 1189/09 below). The Ottoman Order in Council, 1899, made registration, which had previously been voluntary in the case of British Indians, compulsory on all British subjects in the Ottoman Dominions. The fee for registration is 2/6 or "such other "fee [not to exceed 5/-] as the Secretary of State "from time to time appoints." See ~~paragraph~~ Article 157 of Ottoman Order in Council, 1910, flagged "B."

258/10

Col. Ramsay, it may be observed, expressed the view in 1909 that this fee was not too high, "seeing the advantage that British "nationality carries with it in the matter of "exemption from military service and

"some



(18)

"some taxes". The British Consul-General at Constantinople went further, and described the fee of 2/6 as "already too small." (See enclosure in Col. Ramsay's letter of 4 Sept. 1909, flagged "C." on No. 1477/09.)

It seems likely that the registration of British subjects at Baghdad has been affected by recent political developments in Turkish Arabia. See Mr. Marling's despatch to F.O. of 23 Nov. 1910 (flagged "D") reporting that certain British Indians at Baghdad had adopted Turkish nationality "mainly owing to the apparent inability "of the British authorities to afford them "proper protection."

4419/10

It seems clearly desirable to consult G. of I. before answering F.O.

// As regards the Ottoman Order in Council, 1910, it should be stated that we had some correspondence with the F.O. in 1909 as to the revision of the 1899 Order in Council, and were expecting to hear further from them in due course. It was not until



(12) (24)

MINUTE (continued)

Done
see 3589/4

until the present papers were received that the Dept. became aware that the revised Order in Council had actually been issued in Nov. 1910. Copies of the new Order have now been obtained from the Privy Council Office, and it is proposed to take up the question as soon as the present case has been disposed of.





(13) 10

Reference Paper. Confidential

Political and Secret Department.

Letter No. 3571 Rec. 22nd May 1911.

Referred to The Secretary J. & P. Dept. 23 day of May 1911.

For any observations
J S Ferrand.

No observations
[illegible]
29.5.11

J. & P.
1805
1911.





India Office, London,
30th June 1911.

Political,
No. 48.

To His Excellency the Right Honourable the Governor General of India in Council.

My Lord,

Free Registration of poor British Indian subjects in the Bagdad Vilayet.

I forward, for the consideration of Your Excellency's Government, copy of a letter* from the Foreign Office, regarding a proposal made by His Majesty's Consul-General at Bagdad for the free registration of poor British Indian subjects in the Bagdad Vilayet.

* No. 17,177, dated 20th May 1911, with enclosures

2. I shall be glad to be favoured with Your Excellency's views as to the reply which should be returned to the enquiry of the Secretary of State for Foreign Affairs.

3. You will observe that whereas the number of registration certificates issued in 1910 was only 522, in 1908 there were (according to the enclosure in Lieutenant-Colonel Ramsey's letter No. 662 of 21st June 1909 to the address of your Secretary in the Foreign Department) no fewer than 1,824 British subjects registered.

I have the honour to be,
My Lord,
Your Lordship's most obedient humble Servant,
(Signed) Crewe.

1000. 8.1911.





(15) 12

ENCLOSURE.

Foreign Office to India Office.

No. 17,177.

Foreign Office,
20th May 1911.

Sir,

I am directed by Secretary Sir E. Grey to transmit to you herewith, for the information of the Secretary of State for India, copy of a despatch from His Majesty's Ambassador at Constantinople reporting a recommendation by the British Consul-General at Bagdad for the free registration of poor British Indian subjects.

Sir E. Grey would be glad to obtain the advice of Lord Morley as to what steps should be taken to ascertain, in each case, the inability of such persons to pay the fee, before granting registration gratis.

I am, &c.,
W. LANGLEY.

The Under Secretary of State
for India.

Annex 1.

His Majesty's Ambassador at Constantinople to Foreign Office.

No. 293.

Constantinople,
2nd May 1911.

Sir,

I have the honour to forward herewith a despatch, as marked in the margin,* from His Majesty's Consul-General at Bagdad recommending the free registration of poor British Indian subjects.

*Consul-General Lorimer, No. 281/17, Bagdad, dated 1st April 1911.

I have the honour to request that you will instruct me what reply I am to make to this communication from Mr. Lorimer.

I have, &c.,
GERARD LOWTHER.

The Secretary of State,
Foreign Office.

Annex 2.

British Consul-General, Bagdad, to His Britannic Majesty's Ambassador, Constantinople.

No. 281/17.

Bagdad,
1st April 1911.

Your Excellency,

Since my appointment to Bagdad more than a year ago I have devoted close personal attention to the registration of British subjects, specially Indians, in my consular jurisdiction.

I regret to say that the knowledge gained tends to show that the registration of British Indians here is as yet very incomplete. The number of British subjects of Indian descent settled in this country is believed to be not less than three thousand, inclusive of women and children; but the number of registration certificates issued in 1910 was only 243 at this Consulate-General and 279 at the Karbala Vice-Consulate. Many of these were taken by heads of families and included more persons than one; but many on the other hand, were granted to solitary individuals; and a number of course, were on account of British subjects of other than Indian descent.

13001. A 4



All means have been tried, including severity, to induce British Indians to register themselves more generally,* but without avail; and I am inclined to think that the principal cause of their backwardness is the registration fee, small though it is, of 2s. 6d. Indians of the lower class are apt to be extremely parsimonious even when they have some money; and there is no doubt that a large proportion of the Indian settlers here are really paupers, without a farthing to spend.

* Some efforts which I have made in the direction of compulsory registration indicate that, to enforce it, an army of Qawwasses would be required, and imprisonment must be resorted to for the recovery of many fees and fines. Registration would in these circumstances become odious instead of being regarded as a privilege.

The incomplete registration of British Indians is nevertheless a regrettable circumstance, especially in view of the jealousy with which extra-territorial jurisdiction is now regarded by Turkish officials, and of the difficulties which are liable to arise from this state of feeling. In practice it is impossible to refuse Consular assistance to an unregistered British subject who applies for it, as he seldom fails to do when he finds that it will be useful, at the eleventh hour; and the recent date of the certificate of registration granted in such a case must, if it comes to notice, make an unfavourable impression on the mind of the Turkish authorities. It is also inconvenient that the actual number of British subjects in this country should also be so uncertain as it is.

I therefore venture to suggest, with much respect, that His Majesty's Secretary of State might be moved to declare, under Article 157 of the Ottoman Order in Council, 1910, that the fee for the registration of indigent British subjects of Asiatic descent in the Baghdad Wilayat shall be *nil*, their indigence being first established to the satisfaction of the Consular authority granting them registration.

I enclose a copy of a letter which I have received from the British Vice-Consul at Karbala, showing that his opinion coincides with mine in this matter.

I have, &c.,
J. G. LORIMER, I.C.S.,
Political Resident in Turkish Arabia and
His Britannic Majesty's Consul-General
Baghdad.

His Excellency the Right Hon.
Sir Gerard Lowther, K.C.M.G., C.B.,
His Britannic Majesty's Ambassador,
Constantinople.

Annex 3

British Vice-Consul at Karbala to His Britannic Majesty's Consul-General at Baghdad

D.O. No. 41.

Dear Sir, 3rd February 1911.

In reply to your letter dated 25th ultimo, about the free registration of poor British subjects, I beg to state that the idea is very congenial from a public point of view, and I have no doubt that if such a concession be given the poor Indians will all register themselves regularly without failure. At present they neglect to do so, not because of laziness or indifference to their duty, because they are mostly workless paupers, and if some of them have a small profession they can hardly get their own living, still less to pay the fee of a certificate. The free registration would, therefore, be a great boon to them and they would appreciate it most heartily. Our only difficulty will be to divide the degree of the applicants' poverty, as so many who could afford paying the fee would also claim destitution like real paupers, and this can be beaten by making thorough enquiry from reliable people. I, however, back up the idea as being in the interest of both duty and charity.

Yours most obediently,
M. H. MOHSIN.



Print 50 (not Sols) Jng

(16) 13

Political.
No 48.

Dft. despatch to India

No. 1777, 20 May 1911 with enclosures

My Lord,

I forward for the consideration of Y.E.'s Govt. copy of a letter from the F.O. regarding a proposal made by H.M.'s Consul-General at Baghdad for the free registration of poor British Indian subjects in the Baghdad Vilayet.

2. I shall be glad to be favoured with Y.E.'s views as to the reply which should be returned to the enquiry of the S. of S. for Foreign Affairs.

3 You will observe that whereas the number of registration certificates issued in 1910 was only 522, in 1908 there were (according to Lieut. Col. Ramsay's letter No 662 of 21 June/09 to the address of your Sec.y in the Foreign Dep.t) no fewer than 1422 British subjects registered.

(copy)

1091
I. 1244

(Signed) CREWE.





3571

No. 17177/11.

J.&P. 1805 1911.

22 MAY 1911

FOREIGN OFFICE

May 20. 1911.

Sir:-

I am directed by Secretary Sir E. Grey to transmit to you herewith, for the information of the Secretary of State for India, copy of a despatch from His Majesty's Ambassador at Constantinople reporting a recommendation by the British Consul-General at Bagdad for the free registration of poor British Indian subjects.

Sir E. Grey would be glad to obtain the advice of Lord Morley as to what steps should be taken to ascertain, in each case, the inability of such persons to pay the fee, before granting registration gratis.

I am,

Sir,

Your most obedient,

Humble Servant,

W. Langley

22 MAY 1911

The Under Secretary of State,
India Office.

11091





Annex 1

J.&P.
1805
1911.

Copy.
No. 293.
(17177).

CONSTANTINOPLE,
May 2nd, 1911.

Sir:-

I have the honour to forward herewith a Despatch, as marked in the margin, from His Majesty's Consul General at Bagdad recommending the free registration of poor British Indian Subjects.

Cons General Lorimer, No. 281/17 Bagdad, April 1st/11.

I have the honour to request that you will instruct me what reply I am to make to this communication from Mr. Lorimer.

I have &c.,
(Signed) Gerard Lowther.

His Majesty's
Principal Secretary of State
for Foreign Affairs,
&c., &c., &c.





annex 2

(19)

Duplicate.

No. 331/17

Not sent to Foreign Office.
Sent in duplicate.
Sent to Government of India.

BRITISH RESIDENCY AND CONSULATE-GENERAL,
BAGHDAD,
1st April, 1911.

Your Excellency,

Since my appointment to Baghdad more than a year ago I have devoted close personal attention to the registration of British subjects, especially Indians, in my Consular Jurisdiction.

I regret to say that the knowledge gained tends to show that the registration of British Indians here is as yet very incomplete. The number of British subjects of Indian descent settled in this country is believed to be not less than three thousand, inclusive of women and children; but the number of registration certificates issued in 1910 was only 243 at this Consulate-General and 279 at the Karbala Vice-Consulate. Many of these were taken by heads of families and included more persons than one; but many on the other hand, were granted to solitary individuals; and a number, of course, were on account of

British

His Excellency the Right Honourable
Sir Gerard Lowther, K.C.M.G., C.B.
His Britannic Majesty's Ambassador,
Constantinople.





20

British subjects of other than Indian descent.

All means have been tried, including severity, to induce British Indians to register themselves more generally,[a] but without avail; and I am inclined to think that the principal cause of their backwardness is the registration fee, small though it is, of 2/6. Indians of the lower class are apt to be extremely parsimonious even when they have some money; and there is no doubt that a large proportion of the Indian settlers here are really paupers, without a farthing to spend.

The incomplete registration of British Indians is nevertheless a regrettable circumstance, especially in view of the jealousy with which extra-territorial jurisdiction is now regarded by Turkish officials, and of the difficulties which are liable to arise from this state of feeling. In practice

it

(a) Some efforts which I have made in the direction of compulsory registration indicate that, to enforce it, an army of Qawwasses would be required and imprisonment must be resorted to for the recovery of many fees and fines. Registration would in these circumstances become odious instead of being regarded as a privilege.



it is impossible to refuse Consular assistance to an unregistered British subject who applies for it, as he seldom fails to do when he finds that it will be useful, at the eleventh hour; and the recent date of the certificate of registration granted in such a case must, if it comes to notice, make an unfavourable impression on the mind of the Turkish authorities. It is also inconvenient that the actual number of British subjects in this country should also be so uncertain as it is.

I therefore venture to suggest, with much respect, that His Majesty's Secretary of State might be moved to declare, under Article 157 of the Ottoman Order in Council, 1910, that the fee for the registration of indigent British subjects of Asiatic descent in the Baghdad Wilayat shall be nil, their indigence being first established to the satisfaction of the Consular authority granting them registration.

I enclose a copy of a letter which I have

received



received from the British Vice-Consul at Karbala, showing that his opinion coincides with mine in this matter.

I have &c.,

(Signed) J. G. Lorimer,
I.C.S.

Political Resident in Turkish Arabia and
His Britannic Majesty's Consul-General
Baghdad.





Annex 3

17

(22)

From the British Vice-Consul at Karbala, to His Britannic Majesty's Consul-General at Baghdad, D.O. No. 41 dated 3rd February 1911.

Dear Sir:-

In reply to your letter dated 25th ultimo about the free registration of poor British subjects I beg to state that the idea is very congenial from a public point of view, and I have no doubt that if such a concession be given the poor Indians will all register themselves regularly without failure. At present they neglect to do so, not because of laziness or indifference to their duty, because they are mostly workless paupers, and if some of them have a small profession they can hardly get their own living still less to pay the fee of a certificate. The free registration would therefore be a great boon to them and they would appreciate it most heartily. Our only difficulty will be to divide the degree of the applicants' poverty, as so many who could afford

paying



paying the fee would also claim destitution like real paupers, and this can be beaten by making thorough enquiry from reliable people. I however back up the idea as being in the interest of both duty and charity.

Yours most obediently,

(Signed) M. H. Mohsin



4309/10

23

ASIATIC TURKEY AND ARABIA. [November 28.]

CONFIDENTIAL. SECTION 1.

Already circulated

[43062] No. 1.

Mr. Marling to Sir Edward Grey.—(Received November 28.)

(No. 843.)

Sir, *Pera, November* 23, 1910.

WITH reference to your despatch No. 312 of the 17th October and Sir Gerard Lowther's despatch No. 797 of the 31st October concerning the arbitrary and aggressive proceedings of the Ottoman local authorities in Bagdad and Bussorah, I have the honour to enclose paraphrases of two telegrams from His Majesty's consul at Bagdad, reporting that the property numbered No. 6 in his despatch No. 42 of the 5th September has been demolished under circumstances of injury and insult, that the authorities had given notice of their intention to expropriate part of Messrs. Lynch's head offices at a price little more than a third of that estimated by their local manager, that it is rumoured locally that the temporary permission to tow barges given in 1839 is about to be withdrawn, and that the general effect produced on British subjects was so deplorable that some of them—presumably Indian Moslems—were actually becoming Ottoman subjects mainly owing to the apparent inability of the British authorities to afford them proper protection.

Mr. Lorimer also expresses the opinion that the Bagdad municipal loan should not be entrusted to the present local Government, or in any case should not be given until the question of compensation to British subjects has been settled.

I have further just received a written unofficial communication from the Minister for Foreign Affairs, complaining that Lynch's steamers fly the British flag when moored at Bagdad or Bussorah.

As regards the demolitions, Sir Gerard Lowther in his telegram No. 246 of the 11th instant reported to you that the Minister of the Interior had practically decided to indemnify the owners for their losses, and the Minister for Foreign Affairs gave me a similar assurance again yesterday morning. The Minister of the Interior has, moreover, declared that the Government has decided to pay such indemnities "should it be proved that the regulations on the subject have been contravened." In reply to the remark that after the buildings were removed it was difficult to prove that they were not in a dangerous state before demolition, he replied that there had also been numerous strong complaints from natives whose property had been similarly treated, that the matter might come up in Parliament, that one of the Bagdad committee deputies had received secret instructions to investigate the whole affair, that his conclusions seemed most damaging to the vali, that both native and foreign subjects would have to be indemnified, and that all his (the Minister's) colleagues were in favour of recalling Nazim Pasha.

General Nazim Pasha has the reputation of being a strict disciplinarian, and is rather the type of a blunt soldier who is ignorant, as his recent methods at Bagdad have shown, of the niceties of civil administration. As you are aware, he has been an opponent of the committee, and early in 1909 was suddenly appointed Minister of War by Kiamil Pasha, with the idea of compelling the officers to cease dabbling in politics. This excited the fierce anger of the committee, who promptly brought about the violent and unconstitutional fall of the Grand Vizier and his new War Minister. Again, after the mutiny of the 13th April, 1909, Nazim Pasha incurred the displeasure of the committee by accepting the post of commander of the mutinous Constantinople army corps, which he reduced to order, and advocated punishing without the intervention of the Macedonian forces. Being popular with the rank and file his presence in the capital was irksome to the committee, who apparently resolved to send him to the distant post of Bagdad, with the ulterior object of ruining his reputation and dismissing him as a failure. It is not impossible that Nazim Pasha's arbitrary methods of improving Bagdad were indirectly suggested to him by some member of the committee with a view to compassing his downfall, and it seems undoubted that they would like to be able to say that his recall was due to the *English*, to whom Nazim was reputed to be friendly. It is on this account that in our written and verbal complaints about the recent high-handed proceedings at Bagdad this embassy has been careful to omit any mention of his name, and to refer always to "the local authorities" or "the Bagdad

[2988 *ee*—1]



municipality." There seems little doubt now that Nazim Pasha's tenure of office at Bagdad will not last long.

With reference to Mr. Lorimer's suggestion that steps might be taken to defer the conclusion of the Bagdad municipal loan, I do not see how, in view of recent events, the embassy could approach the National Bank with that object.

As regards the expropriation of Messrs. Lynch's head offices, I have caused the Minister of the Interior to telegraph to the vali to see that the provisions of the Expropriation Law are not departed from, and informed Mr. Lorimer that, unless the authorities offer a reasonable price, Messrs. Lynch's agent should, if necessary, bring an action within fifteen days, as prescribed.

I have further had the Minister of the Interior's attention drawn to the threatened withdrawal of Messrs. Lynch's permission to tow barges, and to the fact that the existing accumulation of cargo at Bussorah makes it very inopportune to raise the question at the present moment.

In view of the present frame of mind of the Turkish authorities, they would not now be likely to entertain the suggestion in Messrs. Lynch's letter of the 21st October and that of the 10th November, 1910, enclosed in your despatches Nos. 335 and 346 of the 31st October and the 15th November respectively, that they should be allowed to use a fourth steamer to help to work off the congestion at Bussorah. In the Euphrates and Tigris Steam Navigation Company's letter of the 10th November it is stated that Mr. Abdul Kader-el-Khedery has been granted a permit to run steamers between Bagdad and Bussorah, and that this gentleman is understood to be in close touch with the agents of the German Hamburg-Amerika line. At first sight it is difficult to see why Messrs. Lynch's agent at Bagdad should not be in as close if not closer touch with Mr. Abdul Kader-el-Khedery.

The communication from the Porte complaining that Messrs. Lynch's steamers fly the British flag when moored at Bagdad and Bussorah seemed to contest the right of the original two steamers to carry the British flag. I at once caused energetic representations to be made on the subject, with the result that the Ministry for Foreign Affairs now declares that probably the local authorities confounded the two original steamers with the third steamer, for which permission was granted in January 1907, with the proviso that it should fly the Ottoman flag, and that their complaints refer only to alleged "irregularities" of the third steamer.

As regards the decision prohibiting the registration of Sheikh Kazal's lands at Failieh, the Porte has hinted that representations on the subject would more properly come from the Persian Embassy here, but has promised to re-examine the matter. I have telegraphed to His Majesty's consul at Bussorah to try and arrange that the sheikh's agent should move the new vali at Bussorah to again refer the matter to Constantinople for reconsideration. In a telegram of the 14th November, His Majesty's consul at Bussorah reported from Bushire that the "Redbreast" had visited Wakra and Odeid and found no sign of Turkish mudirs at those places, while, as reported in my telegram No. 248 of the 14th instant, His Majesty's consul-general at Bushire has since reported the desertion of the Turkish post at Zakhnuniyeh. I would venture to suggest, for your consideration, the advisability of sending the "Redbreast" to Zakhnuniyeh to ascertain whether any Turkish gendarmes are still there, and whether, as previously reported, the Turkish flag is still at the bottom of the mast. The visit of a British ship is certain to be reported, and its importance magnified by the local Arabs up to Bussorah and Bagdad, and its effect may counteract to a certain extent the deplorable impression among British subjects at Bagdad caused by the high-handed action of the Turkish local authorities.

The fact that this despatch is a report on some of the questions forming the subject of your despatch No. 312 of the 17th October must be my excuse for including in it more than one subject-matter.

I have, &c.
CHARLES M. MARLING.

Enclosure 1 in No. 1.

Consul-General Lorimer to Sir G. Lowther.

(Telegraphic.) P. *Bagdad, November 12, 1910.*

REFERRING to my telegram of the 8th instant and to your Excellency's telegram of the 10th instant, I regret to report that British reputation at Bagdad has fallen to a



very low ebb, and I find that British subjects are seriously alarmed, seeing that their rights have never hitherto been so trampled upon here. For four months past they have been suffering from illegal oppression, from which there is no sign of any redress to come visible. A prosperous merchant, Abdul Ali, has talked of renouncing his British nationality for Turkish, and several British Indians have actually done so. If I have so far failed to show your Excellency the serious nature of the situation, it has been only because I was unwilling to appear alarmist. The vali is incompetent, and under the influence of unscrupulous and ignorant underlings, and it is with regret that I am reduced to the conviction that he must be removed and replaced by a more intelligent man.

Yesterday they demolished part of the two storied building, No. 6, with circumstances of injury and insult, and have continued doing so to-day. The violence of the local authorities increases daily, and I can only conclude the Minister of the Interior is misleading your Excellency. The vali appears to treat the question as a personal one, and the next thing will be expropriations, which will cause great and as yet unforeseen losses to British subjects if carried out on the same lines as the demolitions. Could your Excellency not obtain compensation in even one case! It would to some extent allay the panic. Immediate payment to the ice manufacturer, whose case is clear, would effect this purpose.

The Bagdad municipality loan should not, I think, be entrusted to the present local Government, or, at any rate, not given till the amount of compensation payable to British subjects for the demolitions and prospective expropriations has been discussed and approved by His Majesty's Embassy. The loan will certainly be misspent, and the city will thus be saddled to no purpose with a heavy debt for a generation.

Enclosure 2 in No. 1.

Consul-General Lorimer to Sir G. Lowther.

(Telegraphic.) P. *Bagdad, November 14, 1910.*

REFERRING to my telegram of the 12th November last, I anticipate that I shall soon learn that a block of lofty houses owned by some Indian nawabs, to which I did not refer in my despatch of the 5th September last, will have been expropriated on scandalously unfair conditions.

Meanwhile, notice has been sent to Lynch's manager of the expropriation of 3¼ metres from the front of his office and warehouse, the expropriation to take effect in fifteen days, and compensation being fixed at 424 Turkish liras only. The unscrupulous character of the proceedings is shown by the fact that Lynch's manager estimates the cost of rebuilding on a new alignment would amount to some 1,184 liras, while the estimate made in my despatch of the 5th September came to 1,250 liras.

The total claim made by Lynch amounts to 2,396 liras, *i.e.*, for buildings which will now be expropriated 1,828 liras, for wall and shops wrongfully demolished 568 liras, though there is perhaps room for discussion regarding the items of the cost of reconstruction. I fear that a grave blow would be struck at British prestige, from which it will not easily recover, if Lynch's office and warehouse are destroyed and no proper compensation first fixed. It is absolutely necessary that the vilayet's proceedings should be checked, and the view is gaining ground here that the British Government cannot protect its subjects in Turkey.





Immediate and Confidential.

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for India, and is directed by the Secretary of State to transmit the accompanying copies of 1 telegram, as marked in the margin.

Sir G. Buchanan No. 55 of March 19th

Foreign Office,
Mar 20th. 1911





Register No. 990

Minute Paper. **Secret Department.**

Letter from Resident, No. 22 M. Dated 28 May 1911. Rec.

	Date.	Initials.	SUBJECT.
Under Secretary	14 June		Turkish Arabia
Secretary of State			Degree of protection to be accorded to Afghans
Committee	19		
Under Secretary			
Secretary of State			

Copy to F.O. 27 June 1911

FOR INFORMATION.

The decision, now reaffirmed, is that "by reason of treaty engagements with H.M. the Amir, H.M.G. are under the obligation, when their assistance is invoked, to intervene for the protection of Afghan subjects." (F.O. to Turkish C. d'A. 6 March/09: 3090/09).

Mr Lorimer thinks it certain that the Turks will refuse to recognise our claims.

Previous Papers:—



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(21) 1.

Confidential. No. 990 - G.

From

The Assistant Secretary to the Government of India in the Foreign Department,

To

The Political Resident in Turkish Arabia.

Dated Simla, the 23rd May 1911.

Sir,

I am directed to acknowledge the receipt of your letter, No.237, dated the 1st April 1911, regarding the status in the Ottoman dominions of subjects of His Majesty the Amir of Afghanistan.

2. I am, in reply, to enclose, for your information, a copy of the marginally cited correspondence, which bears on the subject, and

1. Letter from the Foreign Office to the India Office, dated the 19th January 1909, with enclosure. (434/09)
2. Letter from the India Office to the Foreign Office, dated the 26th February 1909. (1930/09)
3. Letter from the Foreign Office to the Turkish Charge d' Affaires, dated the 6th March 1909. (3096/09)
4. Letter from the Foreign Office to the India Office, dated the 15th October 1909, with enclosure. (4276/09)
5. Letter from the India Office to the Foreign Office, dated the 21st October 1909. (4475/09)
6. Letter from the Foreign Office to H.B.M's Consul, Kermanshah, dated the 27th October 1909. (4432/09)

to observe that the definition of the term " British subject" as given in " The Ottoman Order in Council, 1910" is not new, but follows that given in the Order of 1899, with the exception that the explanation given in the latter has been omitted from the new Order. This being the case, the definition of the term "British subject" given in " The Ottoman Order in Council, 1910" does not necessitate any alteration of the decision of the Foreign Office, London, as conveyed to the Turkish Charge d'Affa-ires in London, on the 6th March 1909.

3.





(28) 2. (78)

3. I am, therefore, to request that you will continue to act in accordance with the instructions contained in the letter from the Government of India in the Foreign Department, No. 1908-E.A., dated the 22nd June 1904 read with the papers, a copy of which is herewith enclosed.

I have the honour to be,

Sir,

Your most obedient servant,

S. S. B. Patterson,

Assistant Secretary to the Government of India.





990

(29) 3

VERY CONFIDENTIAL.

No. 287 of 1911.

From

J. G. Lorimer Esquire, C. I. E.,
Political Resident in Turkish Arabia
& H. B. M's Consul-General,
B a g h d a d.

To

The Hon'ble Sir, A. Henry McMahon, K.C.I.E., C.S.I.,
Secretary to the Government of India
in the Foreign Department,
S I M L A.

British Residency & Consulate-General,
Baghdad, 1st April, 1911.

Sir,

I have the honour to advert to the Government of India's letter in the Foreign Department No. 1982. E.A., dated the 22nd June 1904, in which orders were conveyed to the Political Resident at Baghdad regarding the status in the Ottoman Empire of subjects of H.H. the Amir of Afghanistan.

2. The action of the Political Resident, Baghdad, is still governed by those orders and by a Circular, dated 12th May 1890, from H.B.M's Ambassador at Constantinople. The principal direction conveyed in the Circular is as follows:-

"You are hereby instructed to extend to Subjects of "the Ameer sojourning in the Ottoman Empire unofficial "countenance and protection whenever needed. Such protec-"tion would not give them the right to claim the benefit "of the Capitulations between Great Britain and Turkey but "it would entitle them as British protected persons to "receive British passports and to have the aid and support " of Her Majesty's Consular officers in any difficulties

which





(30) 4.

which they might have with the Ottoman Authorities".

3. The instructions of the Government of India and of H. B. M's Ambassador are in perfect harmony, and they are clear, but circumstances have changed since they were issued.

In the first place it may be taken as certain that, should a contentious case of an Afghan subject arise in this province, the Turkish authorities would, in their present temper, decline to admit the good offices of a British Consular Officer on his behalf, and that the Afghan subject's case would consequently be disposed of in the same manner as if he were a Turkish subject.

In the second place the new Ottoman Order in Council, that of 1910, lays it down (Art 2) that the term "British subject" includes "British protected persons". In the Embassy Circular of 1890 the subjects of the Amir of Afghanistan are described as "British protected persons" and it might therefore be held that under the Ottoman Order in Council, 1910, they should now in Turkey be registered as British subjects (Art. 152 of the Order).

4. Though unwilling to raise a delicate point, I feel that I must solicit guidance on this difficult and

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(31) 5.

important matter. I not infrequently receive applications from subjects of the Amir to be registered as British subjects and these I have been accustomed to refuse, at the same time promising my good offices if occasion should require. I am not sure, however, that the refusal of registration is legal under the Order of 1910; and I have every reason to fear that my promise of good offices, if brought to a practical test, might prove an illusive guarantee. No critical case of an Afghan subject has occurred since my appointment to Baghdad but I am under the impression from their general attitude that the local Turkish authorities are not aware that the British claim in regard to Afghan subjects has been limited in the past to the exercise of good offices. If the Turkish authorities were to ask me categorically what the position is,- and they have already once sounded me on the subject,- I should not know how to answer them.

5. To offer advice to Government in a question of such far-reaching significance is beyond the province of a local officer like myself; but I may be allowed to state the following considerations, though possibly erroneous which have

occurred





(32) 6.

occurred to me.

(a) If the conduct of the foreign relations of the Amir of Afghanistan is in the hands of the British Government, the protection of the Amir's subjects abroad would in ordinary circumstances devolve on the representatives of Britain, at least in places where the Amir maintained no accredited representative of his own. To acquiesce in a different system would apparently be to renounce, in an important respect, the rights of political suzerainty over the Amir; and the failure to assert one of those rights could be used by the opponents of Britain as an argument in any controversy that might arise regarding the international status of Afghanistan.

(b) On the other hand, if the right of Britain to protect Afghan subjects abroad were to be asserted by the British Government and denied by the Amir himself, serious inconveniences might result, such as the appointment by the Amir of representatives of his own, at Baghdad and elsewhere, who claimed to deal directly with the Government of the country.

6. I may be allowed to point out, without presuming to make any suggestion as to what should be done, that it might

be



occurred to me.

(a) If the conduct of the foreign relations of the Amir of Afghanistan is in the hands of the British Government, the protection of the Amir's subjects abroad would in ordinary circumstances devolve on the representatives of Britain, at least in places where the Amir maintained no accredited representative of his own. The acquiescence in a different system would apparently be to renounce, in an important respect, the rights of political suzerainty over the Amir; and the failure to assert one of those rights could be used by the opponents of Britain as an argument in any controversy that might arise regarding the international status of Afghanistan.

(b) On the other hand, if the right of Britain to protect Afghan subjects abroad were to be asserted by the British Government and denied by the Amir himself, serious inconveniences might result, such as the appointment by the Amir of representatives of his own, at Baghdad and elsewhere, who claimed to deal directly with the Government of the country.

4. I may be allowed to point out, without presuming to make any suggestion as to what should be done, that it might

be



(33) 7

be feasible, without reference to the Amir, to register and protect as British subjects any dependents of His Afghan Majesty who should of their own motion apply for such registration and protection. If this were done quietly and without objection during a considerable time a good prescriptive position might be established; but it is of course, impossible to know what line the Turkish authorities would take if their attention should be attracted to the matter.

7. In conclusion I would once more disclaim the wish to raise an embarrassing question, which I have in fact refrained from referring to Government for so long as I ventured. The circumstances of the time, however are such as may at any moment bring the status of Afghans in Turkish Arabia under discussion; and the Political Resident at Baghdad should be in a position, in case of this happening, to assume a clear and decided attitude which he knows to be in accordance with the policy of the Government of India and of His Majesty's Government.

8. A copy of this letter and of the Government of India's letter quoted in the first paragraph have been forwarded to H. B. M's Ambassador at Constantinople for information.

I have the honour to be,
Sir,
Your most obedient servant,

Sd. J. G. Lorimer, I.C.S.,

Political Resident in Turkish Arabia &
H.B.M's Consul-General , Baghdad.





34

8.

(COPY)

No. 1982-E.A., dated Simla, the 22nd June 1904.

From -- The Secretary to the Government of India
in the Foreign Department,

To ---- Major L. S. Newmarch,
Political Resident in Turkish Arabia, and
His Britannic Majesty's Consul-General, Baghdad.

In your diary for the week ending the 27th April 1904, you report that Pathans and Afghans (or what used to be called trans-frontier men) object very much to register themselves as British subjects and that you have not thought it necessary to compel them to do so. You add that their contention is that they are subjects of the Amir and of no one else, but that when they get into trouble with the Turkish authorities, they sometimes seek your protection and you are awaiting such opportunities to protect them and secure their registration.

2. The question of the protection in Turkish Arabia of subjects of Native States in India, has been raised in the correspondence ending with your letter No.24, dated the 7th January 1904, and I am to forward, for your information, a copy of a despatch which has been addressed to His Majesty's Secretary of State for India on the subject. With reference to the last paragraph of the despatch, I am to observe that the position of

subjects





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subjects of the Amir is different from that of subjects of Native States in India, and that unless or until His Highness asks us to extend the protection of our Ministers and Consular Officers abroad to his subjects, instead of their good offices alone, it is not advisable to claim the right to grant that protection. The Government of India recognize the desirability of standing forth as the representatives abroad of Afghan interests, and everything possible should be done to encourage this attitude. At the same time, it is feared that no good would result from addressing the Amir at the present moment, and inviting him to accord his formal concurrence to the representation of his subjects in foreign territory by our Diplomatic and Consular Officers. His Highness would probably find some excuse for refusing to give his consent even to an arrangement so beneficial to his own people. In the opinion of the Government of India, therefore, it will suffice if British Consular Officers in Turkish Arabia extend their good offices to all Afghans who may apply for them. Careful distinction should be drawn between tribesmen who are bona fide subjects of the Amir and Pathans or other tribesmen who live on the British

side





(36) 10.

side of the Durand agreement line: the latter are British subjects, or at any rate British protected subjects, and there is no objection to your registering them should they apply to you for protection.

3. I am to request that you will move in this matter with great caution and tact, as the Government of India are not anxious to emphasise the difference between Afghan subjects and other Pathans, or to weaken their own position as regards Afghanistan vis a vis Foreign Powers. On the whole, it would appear to be best to leave it to such persons to claim consular protection and good offices, and they will soon come to know that registration is the best way of securing these. If hereafter many bona fide subjects of the Amir apply for registration, protection, or the exercise of your good offices, I am to request that you will bring the matter to notice so that, if the occasion is suitable, the attention of the Amir may be drawn to the present rather anomalous position of his subjects abroad.

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(37) (36)

Minute Paper.

Register No. 3486

~~Secret~~ Political Department.

Letter from Do. Dated 2 June 1910. Rec. 3 June 1910.

	Date.	Initials.	SUBJECT.
Under Secretary	3 June		Turkish Arabia
Secretary of State			Vali of Basrah's acceptance as British subjects of Baluchis registered at H.M.'s Consulate
Committee	4		
Under Secretary			
Secretary of State			
Council			

Copy to

COPY TO INDIA
17 June 1910
SECRETARY'S No. 24

FOR INFORMATION.

Pol 3/24 17 June '10

Secy Pol. Com.

Previous Papers:—

3193





3486

3493

RECEIVED IN 3 JUN 1910 POLITICAL DEPARTMENT

In any further communication on this subject, please quote

No. 19093

and address—
The Under-Secretary of State,
Foreign Office,
London.

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for India and, by direction of the Secretary of State, transmits herewith copy of the under-mentioned paper.

Foreign Office,
June 2, 1910.

Reference to previous letter:
India Office, April 9, 1910

RECEIVED 10 a.m. 3 JUN 1910 INDIA OFFICE.

Description of Inclosure.

Name and Date.	Subject.
Ambassador at Constantinople May 25, 1910	Protection of Baluchis in Basra Vilayet

(Similar letter sent to)



Copy

No.

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(190

His



(39)

Copy.

CONSTANTINOPLE,
May 25th 1910.

No.13.
Treaty.
(19093)

Sir:-

With reference to my despatch No.162 of March 16th last, I have the honour to forward herewith a despatch as marked in the margin from His Majesty's Consul at Basra in regard to the protection of Baluchis in the Basra vilayet, reporting that the Vali will accept as British subjects any Baluchis who are registered at His Majesty's Consulate.

I have &c.,

(Signed) Gerard Lowther.

His Majesty's Principal
Secretary of State
for Foreign Affairs.





(40) (X)

BASRA,

No.24. April 30th 1910.

Sir:-

In reply to Your Excellency's despatch of March 18th last I have the honour to report that the Vali has received the instructions about the protection of Baluchis issued by the Minister for Foreign Affairs and they are, so he says, as stated in Your Excellency's despatch.

The Vali agrees to accept as British subjects all Baluchis registered at this Consulate.

As far as we are concerned here this would seem to be sufficient.

As already reported there are no Baluchis at present registered at this Consulate.

I have &c.,

(Signed) F.E. Crow.

His Excellency
The Right Honourable
Sir G. Lowther, K.C.M.G., C.B.
&c., &c., &c.



Register No. 3193

Political Department.

Letter from F.O.

Dated 5 April 1910
Rec. 6

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	6 Apr		Turkish Arabia
Secretary of State	7		Status of Baluchis and Afghans at Basrah. Sir G. Lowther's communication with Rifaat Pasha proposal to approve Sir G. Lowther's action and to supply him with Vol. 2 of Gazetteer of India containing maps for which he asks
Committee			
Under Secretary			
Secretary of State			
Council			

Copy to India 15 April 10

FOR USE BY DEPARTMENTS ONLY.

Draft letter to F.O. concurring in proposal to approve H.M.A.'s action

Letter to F.O., 9 April

Sign 6/4/10

Previous Papers :—

2967





(42) (37)

MINUTE.

The Imperial M. F. A. distinguishes between
(1) Persian Baluchistan,
(2) British do,
(3) Independent do.

Our new division is:-
(1) Persian Baluchistan,
(2) The Baluchistan "within the external frontier of India", of which the subdivisions are -
(a) British Baluchistan, properly so called
(b) The Agency territories, i.e. leased tracts, etc, and
(c) The Native States of Kalat & Las Bela.

Memo. of Pol. Dept, 15 Feb. '09. 2921/09.

Vol 26 of the Gazetteer is mainly the Atlas





3193 (43) (30)

F.O.

Book 108

9 April 1910

Sir:

In reply to y. l. No. 10,508, dated the 5th Ap. '10, I am dir. to say that Vis-count Morley concurs in the proposal of Sec. Sir E. Grey to approve the action of H. M.'s A. at Constantinople in asking that the Vali of Basrah should recog-nise as entitled to British protection all Baluchis registered at the British Consulate.

Lord Morley also concurs in the proposal to supply Sir G. Lowther with Vol. XXVI of the 'Imperial Gazetteer of India'.

(Sd.) R. RITCHIE.





3193

In any further communication on this subject, please quote

No. 10508/10.

and address—
The Under-Secretary of State,
Foreign Office,
London.

Foreign Office
April 5 1910.

Sir:-

With reference to my letter of February 12th last, 4226, I am directed by Secretary Sir Edward Grey to enclose, for the information of Viscount Morley, a copy of a despatch from His Majesty's Ambassador at Constantinople reporting on the attitude of the Turkish Government respecting the status of Baluchis and Afghans in connexion with the notice recently issued by the Vali of Basrah.

Sir Edward proposes, with Lord Morley's concurrence, to approve Sir G. Lowther's action, and to furnish him with volume 26 of the "Gazetteer of India" containing the maps for which he asks.

I am,

Sir,

Your most obedient,

humble Servant,

F.A. Campbell

The Under Secretary of State,
India Office.





(45)

Constantinople

No. 162 March 18 1910

Sir,

With reference to your despatch No. 1 Treaty of February 11th, 1910, I have not failed to bring to the notice of the Minister for Foreign Affairs the views of His Majesty's Government regarding the status of Baluchis and Afghans with a view to the modification by the Vali of Basrah of the notice referred to in H. Consul Crow's communication of January 4th.

Rifaat Pasha informed me that the question arose partly owing to the representations made some time back by the Persian representatives here and at Basrah implying the claim that Baluchis are Persian subjects; that he had made inquiries and been informed that Baluchistan was to be divided into three parts, namely Persian Baluchistan, British Baluchistan and a portion of that country which is independent. I again reminded him of the communication of March 6, 1909 to Jevad Bey to the effect that Baluchistan is within the external frontier of India, stated that Persian claims had better be left for settlement between the British and Persian governments, and requested him to instruct the Vali of Basrah to re-

cognise

The Rt. Hon. Sir E. Grey, Bart. M.P.

etc. etc. etc.





(46) (85)

as entitled to British protection

cognize all Baluchis registered at the British Consulate there.

The Minister for Foreign Affairs, however, after consulting his conseillers légistes, and without informing me, wrote to the Vali of Basrah instructing him to treat Baluchis from Persian Baluchistan as Persians, Baluchis from British Baluchistan as British Indians and to accord to Baluchis from independent Baluchistan the same treatment as to Afghans.

I have informed Rifaat Pasha that this is not likely to work out satisfactorily, and that the proper instructions to give to the Vali of Basrah are to recognize as entitled to British protection all Baluchis registered at the British Consulate.

I have also instructed His Majesty's Consul at Basrah to discuss the matter with the Vali and to report the result of his conversation.

I should be much obliged if you would send me copies of the maps published in the "Gazetteer of India" mentioned in your despatch of March 6 (No. 7634/09) to Djevad Bey.

I have the honour to be with the highest respect,

Sir,

Your most obedient

humble servant





(47) (96)

Register No. 2967

Minute Paper. **Political Department.**

Letter from F.O.,

Dated 12 } Feby. 1910.
Rec. 14 }

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	15 Feb.	[illegible]	Turkish Arabia
Secretary of State	17	[illegible]	Status of Baluchis at Basrah.
Committee	18.	[illegible]	Instructions sent to H.M's Ambassador at Constantinople as proposed in this letter to this Office of 18 January
Under Secretary			
Secretary of State			
Council			

Copy to
COPY TO INDIA
4 March 1910.
SECRETARY'S No. 9

For information

The instructions to Sir G. Lowther were sent after consultation with this Office.

Pol. Com. 25 FEB 1910

Previous Papers:

TH 3265





2967

RECEIVED IN 14 FEB 1910 POLITICAL DEPARTMENT

In any further communication on this subject, please quote

No. 4226

and address—
The Under-Secretary of State,
Foreign Office,
London.

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for India *and, by direction of the Secretary of State, transmits herewith cop*ies *of the under-mentioned paper*s.

Foreign Office,
February 12, *1910.*

Reference to previous letter:
India Office February 2, 1910.

Description of Inclosure.

Name and Date.	Subject.
1. H.M. Representative Constantinople, January 30, 1910. 2. to Ditto, February 11, 1910	Status of Baluchis in Basrah Vilayet

(Similar letter sent to)

RECEIVED 10 a.m. 14 FEB 1910 INDIA OFFICE.

[13]





(49)

Copy.

FOREIGN OFFICE,
February 11th, 1910.

No.
Treaty.
(4226/10).

Sir:-

I have had under my consideration, in communication with His Majesty's Secretary of State for India, Your Excellency's telegram No. 4 of the 12th ultimo, on the subject of a notice issued by the Vali of Basra respecting the status of Baluchis in that Vilayet. I have also received your despatch No. 40 of the 30th ultimo on the same subject.

I would refer Your Excellency to the correspondence which took place with the Turkish Chargé d'Affaires in March last, copy of which was enclosed in my despatch No. 8 Treaty, of the 8th of that month. In my note to Djevad Bey the view of His Majesty's Government as to the status of these persons was clearly laid down viz: that, since Baluchistan lies within the external frontier of India, natives of that State,

when

His Excellency
The Right Honourable
Sir G. Lowther, K.C.M.G., C.B.,
&c., &c., &c.





(4226/10).

when outside its limits, are deemed to be British Protected Persons.

The Turkish Government are, no doubt, aware of the above view, but I should be glad if Your Excellency would call their attention to it with a view to the notice issued by the Vali being modified.

I am, with great truth and respect,

Sir,

Your Excellency's most obedient,

humble Servant,

(For the Secretary of State)

(Signed) L. Mallet.



Copy.

No. 4

(422

His



Copy.

BRITISH EMBASSY,
CONSTANTINOPLE,
January 30th, 1910.

No. 46.
(4226).

Sir:-

With reference to my telegram No. 4 of the 12th instant I have the honour to forward herewith a despatch, as marked in the margin, from His Majesty's Consul at Basrah, transmitting copy of the notice issued by the Vali respecting the status of Baluchis in the Vilayet of Basrah.

I have &c.,

(Signed) Gerard Lowther.

His Majesty's Principal
Secretary of State
for Foreign Affairs.



No.

C. M.



BASRA,
January 4th, 1910.

No. 1.

Sir:-

With reference to my telegram No. 1 of the 3rd. instant I have the honour to transmit herewith enclosed a cutting from the official newspaper "Basra", published here and dated December 17th/30th 1909, which was inserted in that organ by the Vali, together with a translation.

There are, I believe, a considerable number of Baluchis at Basra, both from British Baluchistan and from the territories in that district under our political control. I do not however extend British protection to Baluchis who fail to register themselves at this Consulate. I have not so far received any successful applications for registration and, at the present time, there are no Baluchis registered at the Consulate.

The Vali, judging by the notification enclosed, is evidently under a misapprehension regarding our

Treaty

C. M. Marling, Esq., C.M.G.,
&c., &c., &c.



Treaty engagements with the nine important divisions of Baluchistan, comprised by:-

1. Kalat.

2. Sarawan and Jhalawan, lying to the north and south of Kalat respectively.

3. The districts of Quetta, Bolan, Mushki and Nasirabad.

4. The chiefship of Las Bela.

5. Kharan.

6. Makran, including Kej and Panjur.

7. The country inhabited by the Marri and Bugti tribes along the Punjab and Sind borders.

8. British Baluchistan.

9. The Bori, Zhob, Chagai and Sinjeran country.

Of these divisions Nos. 1, 2, 4, 5 and 6 are under our political control. Bolan (No. 3) is administered by the Kalat political agency and the remaining districts under (3) form part of the agency territories, which are administered by the Governor General's Agent, along with the tracts enumerated under Nos. 7 and 9.

I think, under the circumstances, that the Vali should receive some official intimation of the political

status



status of these countries and should be directed to admit our intervention on behalf of such natives of them as register themselves in the ordinary way at the British Consulate at Basra.

Such registration could of course only be effected here provided the applicant produced satisfactory evidence in support of his claim to British protection, as is laid down in Section 11, Chapter XXVII, page 263 of the General Consular Instructions regarding Asiatics.

I have deferred taking any official action in the matter pending the receipt of your instructions.

I have &c.,

(Signed) F. E. Crow.





Translation from the "Basra" a newspaper published at Basra dated December 17th/30th, 1909.

NOTICE.

All departments are hereby informed that Baluchistan being a principality and having no political representative here and having no treaties or privileges, Baluchis at Basra are subject to local laws and regulations like other inhabitants and no unauthorized intervention from any quarter will be permitted in any of their affairs or operations.

Suleiman Nazif,
Vali of Basra,
December 5th, 1325.





(55) (90)

Register No. 2865

Political Department.

Letter from F.O., Dated 18 Jany. 1910. Recd 19

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	19 Jan		Turkish Arabia.
Secretary of State	20		Status of natives of Baluchistan at Basrah: official notification by Vali that they are subject to local laws and regulations. Proposal to draw the attention of the Turkish Govt to views expressed by HM's Govt last year that Baluchis are deemed to be British protected persons
Committee	21		
Under Secretary	25		
Secretary of State			
Council	25		

Copy to India 4 Feb 10

Placed on the COUNCIL TABLE 7

FOR USE BY DEPARTMENTS ONLY.

Draft letter to F.O., concurring.

Jany. 25th. The Political Committee approve the draft

Appd Council, 1 Feb

Letter to F.O., 2 Feb.

Previous Papers:— 3090/09





MINUTE.

The reply to the Turkish Govt in March 1907 as to the status of Baluchistan was made after consultation with this Office





(57) (49)

2 Feb/10.

Dft. F.O.

Sir,

In reply to your letter No. 1257, dated the 18th January 1910, as to the notification published by the Turkish authorities at Basra regarding the status of Natives of Baluchistan, I am directed to inform you that Viscount Morley concurs in the instructions which Sir E. Grey proposes to send to H.M's Ambassador at Constantinople on the subject.

Book 2.2





2865

In any further communication on this subject, please quote
No. 1357/10.
and address—
The Under-Secretary of State,
Foreign Office,
London.

FOREIGN OFFICE
January 18 1910.

Recd 19/1/10

Sir:-

I am directed by Secretary Sir E. Grey to transmit to you, to be laid before the Secretary of State for India, a paraphrase of a telegram from His Majesty's Ambassador at Constantinople on the subject of an official notification published at Basrah with respect to the status of natives of Baluchistan.

I am to refer to the correspondence which passed in February and March last year, when the Turkish Chargé d'Affaires was informed, in reply to an enquiry made by his Government, that as Baluchistan lies within the external frontier of India, natives of that State, when outside its limits, are deemed to be British protected persons (see Foreign Office to India Office, March 8th, 1909).

Sir E. Grey accordingly proposes, with Viscount Morley's concurrence, to instruct Sir G. Lowther in reply

The Under Secretary of State,
India Office.

RECEIVED
10 a.m.
19 JAN 1910
INDIA OFFICE.





(1357/10).

reply to his telegram, to call the attention of the Turkish Government to the view expressed by His Majesty's Government on that occasion.

I am,

Sir,

Your most obedient,

humble Servant,

F.A. Campbell





(60) (14)

Paraphrase of Telegram from Sir G. Lowther, Constantinople, No.4, dated January 12th 1910.

---

(13)

Following telegram received yesterday from Consul at Basrah:-

"Vali has published in the Basrah newspapers the following official notification. 'All departments are hereby informed that Baluchistan being a (? foreign Power ?) and having no political representative here and having no treaties or privileges, Baluchis at Basrah are subject to local laws and regulations like other inhabitants and no unauthorised intervention from any quarter will be permitted in any of their affairs or operations'.

I do not extend British protection to natives of Baluchistan who fail to register themselves at this consulate but it seems to be that Vali should be informed of our treaties and engagements with that country and directed to modify his misleading announcement".

Shall I make representation in this direction to the Turkish Government?





Mr Hirtzel

? May be put by
Chy has gone to
India

J.G.

29/10/04

Yes 28th [illegible]





4152

In any further communication on this subject, please quote
No. 38984
and address—
The Under-Secretary of State,
Foreign Office,
London.

RECEIVED IN POLITICAL DEPT. 29 OCT 1909

Copy to India
29 Oct 09
Day 44

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for India and, by direction of the Secretary of State, transmits herewith copy of the under-mentioned paper.

Foreign Office,
October 28, 1909

Reference to previous letter:
India Office, October 21 (4095)

Description of Inclosure.

Name and Date.	Subject.
To Hon. Consul at Kermanshah October 27	Passports of Afghan pilgrims

(Similar letter sent to)

[13]





Copy.

FOREIGN OFFICE,
October 27th, 1909.

No.1.
Treaty.
(38984/09).

Sir:-

I am directed by Secretary Sir Edward Grey to acknowledge the receipt of your despatch No.1 Treaty, of the 15th ultimo, in which you request instructions with regard to the grant of, or visa of passports of Afghan pilgrims passing through Kermanshah on their way to Mesopotamia.

I am to state that, by reason of their Treaty engagements with the Amir, His Majesty's Government are under the obligation, when their assistance is invoked, to intervene for the protection of Afghan subjects. In these circumstances, Afghan subjects would, when in Persia, be in the position of British Protected Persons, and entitled to be treated as such under the "Persia Order in Council 1889".

You

[illegible]. McDouall, Esq.,
His Majesty's Consul,
Kermanshah.





69

(38984/09).

You should therefore, when necessary, issue passports to them as such, and also affix your visa to Afghan passports if required.

I am to add that, in view of the special status of Afghanistan, such passports cannot be regarded as issued by Foreign authorities, to which allusion is made in Chapter XXVI, section 8, of the "General Consular Instructions 1907".

I am,

Sir,

Your most obedient,

humble Servant,

(Signed) F. A. Campbell





(65) (98)

Register No. 4095

Secret Department.

Letter from F.O.

Dated 13 Rec. 14 Octr 1909.

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	15 Oct	[illegible]	Persia and Turkish Arabia
Secretary of State	16	[illegible]	Request of H.M.'s Consul at Kermanshah for instructions as to the grant of Consular visas to Afghan pilgrims passing through Kermanshah en route to Mesopotamia. Proposed reply of F.O.
Committee	18	[illegible]	
Under Secretary	20	[illegible]	
Secretary of State			

Copy to India 29 Oct 09

FOR USE BY DEPARTMENTS ONLY.

Apt to F.O. concurring in proposed instructions to H.M.'s Consul at Kermanshah.

Oct 20th. The Political Committee approve the draft letter.

Letter to F.O. 21 Oct

20.10.09

Previous Papers :—

3931, 3990 / 09

[illegible]





MINUTE.

The proposed instructions to the British Consul at Kermanshah are in accordance with the recognised policy of H. M.'s Govt as to the protection of Afghan subjects abroad. See I.O. letter to F.O. 24th February 1909 and F.O. Note to the Turkish Ambassador 6th March 1909.

9810. I. 724. 1000—4/1908.





(67) (58)

Dft. F.O. 21 Oct/09

Sir,

In reply to your letter No. 37178, dated the 13th October 1909, as to the grant of H.M.'s Consul at Kermanshah of his Consular visa to the passports of Afghan pilgrims passing through that town on their way to Mesopotamia, I am directed to inform you that Viscount Morley concurs in the instructions which it is proposed to issue to Mr. Consul McDonall on the subject

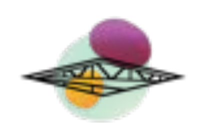
(Sd) R. RITCHIE

to Sir

HM.

TR

SB





4095

In any further communication on this subject, please quote
No. 37178/09.
and address—
The Under-Secretary of State,
Foreign Office,
London.

14 OCT 1909
POLITICAL DEPT.

Foreign Office
October 13. 1909.

Sir:-

I am directed by Secretary Sir E. Grey to transmit to you, to be laid before Viscount Morley, a copy of a despatch from His Majesty's Consul at Kermanshah requesting instructions with regard to the grant of his Consular visa to the passports of Afghan pilgrims passing through that town on their way to Mesopotamia.

In referring to your letter of the 24th. February last in the case of an inquiry made by the Turkish Ambassador respecting the status of natives of Afghanistan and Baluchistan, I am to observe that Sir E. Grey proposes, with Lord Morley's concurrence, to inform Mr. McDouall that His Majesty's Government, by reason of their Treaty engagements with His Majesty the Amir, are under the obligation, when their assistance is invoked, to intervene for the protection of Afghan subjects. In the circumstances therefore Afghan subjects would in

(292/09)

RECEIVED 10 A.M. 14 OCT 1909 INDIA OFFICE

Persia

The Under Secretary of State,
India Office.





(37178/09)

Persia be in the position of British protected persons, and entitled to be treated as such under the Persia Order-in-Council 1889, and that he should accordingly, when necessary, issue passports to them as such, and also affix his visa to Afghan passports if required.

I am,

Sir,

Your most obedient,

humble Servant,

Falamushah





4095

No. 1
Treaty.

British Consulate,
Kermanshah.
September 15th., 1909.

Sir,

I have the honour to inform you that many Afghan pilgrims pass through Kermanshah bound for the holy places of Mesopotamia, and it has been the custom to visa their Afghan passports here, as the Turkish Consulate does not accept Afghan passports without a British Consular visa. All foreigners passing to Turkey have to get their passports visâd at the Turkish Consulate here.

In many cases the passports have been visa'd at the Consulate gratis on the grounds of destitution.

I have not found any instructions regarding protection of Afghan subjects and the granting of visa of passports for them in the archives and would be ask to be supplied with such.

I am,
Sir,
Your most obedient,
humble Servant,
[illegible signature]

His Majesty's Principal
Secretary of State
for Foreign Affairs,
London.





Register No. 3090

Minute Paper. **Secret Department.**

Letter from F.O.

Dated 8 March 1909.
Rec. 9 March 1909.

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	9-3		Afghanistan, Baluchistan, &c.
Secretary of State	10		Status in Ottoman dominions of Natives of Afghanistan &c. Text of the F.O. reply to the enquiry of the Turkish Ambassador.
Committee	16		
Under Secretary			
Secretary of State			

Copy to GOVT. OF INDIA 26 March 1909. SECRETARY'S No. 13

For information.
(The reply is in accordance with our letter of the 24th Feb.)

Secy Pol. Comm. 23 MAR 1909

Previous Papers :—
2921





3090

In any further communication on this subject, please quote

No. 7634

and address—
The Under-Secretary of State,
Foreign Office,
London.

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for India and, by direction of the Secretary of State, transmits herewith copy of the under-mentioned paper.

Foreign Office,
March 8, 1909.

Reference to previous letter:
India Office February 24.

Description of Inclosure.

Name and Date.	Subject.
To Turkish Chargé d'Affaires March 6	Status in Ottoman Dominions of Natives of Afghanistan and Baluchistan.

(Similar letter sent to)

[13]





(73)

Copy.

FOREIGN OFFICE.

March , 1909.

No.7634/09.

Sir:-

In reply to the Communication left by you at this Office on January 6th last respecting the status in the Ottoman Dominions of natives of Afghanistan and Baluchistan and also of other States conterminous with India, I have the honour to state as follows:-

Baluchistan is within the external frontier of India. Natives of Baluchistan and all territories lying within the external frontier of India are, when outside those limits, deemed by His Majesty's Government to be British Protected Persons. Afghanistan is outside the external frontier of India, but, by reason of Treaty Engagements with His Majesty the Amir, His Majesty's Government are under the obligation, when their assistance is invoked, to intervene for the protection of Afghan subjects.

As regards maps I would refer you to those published in the "Gazetteer of India," and also to the

Parliamentary

Djevad Bey,

&c., &c., &c.,





(74) (80)

No.7634/09.

Parliamentary Paper (Cd. 2534 of 1905) which contains the Treaty concluded with His Majesty The Amir on March 21st, 1905. A copy of this latter paper is enclosed.

I have the honour to be,

with high consideration,

Sir,

Your most obedient,

humble Servant,

(For the Secretary of State)

(sd) J.A. Campbell





(75)

Register No. 2921

Minute Paper. **Secret Department.**

Letter from F.O.

Dated 29 / Rec. 30 Jany. 1909.

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	15 Feb		Afghanistan, Baluchistan, &c.
Secretary of State	16		Enquiry of the Turkish Ambassador in London as to the status in the Ottoman Dominions of Natives of Afghanistan and Baluchistan, and also of other States coterminous with India.
Committee	18		
Under Secretary	23		
Secretary of State			

Copy to India 26 Feb 09
Secy 9.

Dft. to Foreign Office.

A Memorandum is attached giving in some detail the recent history of this question of "protection" of Afghans & subjects of Native States in the Ottoman dominions.

The Turkish Govt. ask in connection with the question of the status of British protected persons in the Ottoman dominions,

(1) what portions of Afghanistan and Baluchistan & other countries coterminous with India are in the direct possession of Great Britain or governed by British Agents in the name of "the Amirs" of those countries; and

(2) what portions of the

Previous Papers:—
1266/07
3203/06
2493/05



countries in question appertain directly to ("relèvent directement de") those "Amirs." They also ask for official maps of Afghanistan and Baluchistan and other countries coterminous with India, and copies of our treaties with "the Amirs of Afghanistan and Baluchistan."

The form of this request shows that the Turkish Govt. do not realise that Baluchistan is not coterminous (as Afghanistan is) with India, but within its external frontier.

The reply suggested in the F.O. letter (which is not very clearly worded) is to the effect that we shall explain to the Porte the status of the "various countries "literally coterminous with India," and lay down that "the Natives of those states are, when outside "their limits, deemed by H.M.'s Govt. to be British "protected persons."

This reply seems sound as far as Baluchistan and the territories on the N.W. Frontier between the "administrative" and "external" borders are concerned. It is in accordance with the decision of 1905 [See Mr. Brodrick's despatch No. 55, d/- 23rd June 1905, flagged as A] that subjects of Native States are entitled as "British-protected persons" to the same measure of protection as British subjects in the Ottoman dominions.

The expediency of a similar reply as regards



(76)

Afghanistan seems doubtful in view of the failure of our attempt in 1890-91 to assert the right of protecting Afghan subjects in Turkey. Apart from the difficulty of getting the Turks to accept our proposition, the Amir may be alarmed if he learns through Turkish sources that we are insisting that his subjects are under our protection. On the other hand, there is the risk, if we do not claim enough in the way of protection of Afghans, that we shall weaken the position we have acquired by treaty in respect of conducting the foreign relations of the Amir.

It may be added ~~that~~, as regards the responsibilities involved in the reply proposed to the Turkish enquiry, that we can limit them by refusing protection or intervention in the case of Afghans or others when the applicant does not produce satisfactory certificates. See also para 2 of our despatch No. 57 of 30 June 05 as to the case of a Native of [illegible] & [illegible] furnished with a British passport for the purpose of a visit to Hedjaz





(77)

24 Feb 1909.

Dft to F.O.

Sir,

I am directed by Viscount Morley to acknowledge the receipt of your letter No. 996, dated the 29th January 1909, regarding an enquiry received from the Turkish Ambassador as to the status in the Ottoman dominions of natives of Afghanistan and Baluchistan, as well as of other states coterminous with India.

Book 83

In reply I am to refer to the correspondence ending with Lord Salisbury's despatch to Sir W. White, No. 226, dated the 14th October 1891, as to the instructions to be issued by the Embassy at Constantinople respecting the protection of Afghans in Turkey, and to say that Lord Morley would suggest for Sir E. Grey's consideration that the reply



to the Turkish Ambassador's enquiry should be to the following effect:—

Baluchistan is within the external frontier of B India. Natives of Baluchistan and all territories lying within the external frontier of India are, [when outside those limits] deemed ~~regarded~~ by H. M's Govt. to be British protected persons. Afghanistan is outside the external frontier of India, but by reason of our treaty engagements with H.H the Amir, the British Govt. are under the obligation, when their assistance is invoked, to intervene for the protection of Afghan subjects.

As regards maps, Lord Morley would suggest that the Turkish Ambassador, should he press the point, might be referred to those published in



(78) (56)

the "Gazetteer of India". There is ~~no objection~~ to His Excellency being
~~supplied with~~ [might also be referred to] the Parliamentary
paper (Cd. 2534 of 1905) containing
the Treaty with the Amir of the
21st March 1905, but it seems
unnecessary to furnish him with
the detailed agreements with
the Amir defining the boundary
between India and Afghanistan,
so far as it has been demarcated,
or the agreements with the
Persian Govt defining the
boundary between Persia and
Baluchistan.

Lord Morley concurs in the
view that the reply to Rifaat
Pasha should contain no reference
to territories in the Persian Gulf
or on the Arabian littoral, with
the local rulers of which H.M. Govt
are in treaty relations.

HB

[illegible] HWB [illegible]





2921

(79)

In any further communication on this subject, please quote

No. 996/09.

and address—
The Under-Secretary of State,
Foreign Office,
London.

Foreign Office

January 24, 1909.

Sir:-

I am directed by Secretary Sir Edward Grey to transmit to you, to be laid before Viscount Morley, a copy of a note from the Turkish Ambassador, enquiring as to the status in the Ottoman Dominions of natives of Afghanistan and Beluchistan, and also of other States coterminous with India.

I am to refer to paragraph 7 of the despatch from the Government of India enclosed in your letter of July 7th, 1904, and to the last paragraph of the despatch addressed to them on June 23rd, 1905, a copy of which accompanied your letter of June 26th, 1905, on the subject of the national status in Turkey of subjects of the Native States in India, and to request that Sir Edward may be favoured with any observations which Viscount Morley may desire to offer as to the re-

ply

(664/04)

(2993/05)

The Under Secretary of State,
India Office.





(80)

(996/09)

reply which should be returned to the Turkish Ambassador's note.

Sir Edward thinks that, in the circumstances, it would be best to explain to Rifaat Pasha the status of the various countries literally coterminous with India, without referring, for instance, to the Persian Gulf, and to inform His Excellency that the natives of those States are, when outside their limits deemed by His Majesty's Government to be British Protected Persons.

I am,

Sir,

Your most obedient,

humble Servant,

J A Campbell



Copie.

LONDRES,
le 6 Janvier, 1909.

Nr.3995.3.

Monsieur le Ministre:-

Des contestations surgissent quelquefois entre les Autorités Ottomanes et les Consulats d'Angleterre en Turquie à propos de la nationalité des individus originaires de l'Afganistan et du Belutchistan que sont établis dans l'Empire Ottoman.

En vue de guider les Autorités Impériales, j'ai l'honneur de prier Votre Excellence, d'ordre de mon Gouvernement, de vouloir bien m'indiquer les parties des pays précités et aussi celles d'autres contrées limitrophes des Indies qui sont dans la possession immédiate de la Grande Bretagne ou administrées par ses agents au nom des Emirs, ainsi que celles qui relèvent directement de ceux-ci.

J'ai l'honneur d'être, Monsieur le Ministre, avec la plus haute, &c.,

(Signé) Rifaat.

Son Excellence,
Sir Edward Grey, Bart.,
Foreign Office.



L O N D R E S,
le 6 Janvier, 1909.

No. 3005.3.

Monsieur le Ministre:-

Des contestations surgissent quelquefois entre les Autorités Ottomanes et les Consulats d'Angleterre en Turquie à propos de la nationalité des individus originaires de l'Afghanistan et du Beloutchistan qui sont établis dans l'Empire Ottoman.

En vue de guider les Autorités Impériales, j'ai l'honneur de prier Votre Excellence, d'ordre de mon Gouvernement, de vouloir bien m'indiquer les parties des pays précités et aussi celles d'autres contrées limitrophes des Indes qui sont dans la possession immédiate de la Grande Bretagne ou administrées par ses agents au nom des Emirs, ainsi que celles qui relèvent directement de ceux-ci.

J'ai l'honneur d'être, Monsieur le Ministre, avec la plus haute, &c.,

(Signé) Rifaat.

Son Excellence,
Sir Edward Grey, Bart.,
Foreign Office.



1. Carte officielle et détaillée de l'Afganistan et du Beloutchistan et des autres contrées limitrophes des Indes.

2. Textes des traités conventions et arrangements que le Gouvernement Britannique aurait conclus avec les émirs de l'Afganistan et du Beloutchistan.





2934/09

1 (83)

MEMORANDUM.

The general subject is governed by the decision of 1905 when, a question of the nature of the protection to be given to subjects of Native States having arisen at Bagdad, the Foreign Office laid down in Circulars, dated 22 May 1905, to Diplomatic and Consular Officers Abroad that "The same measure of protection may properly be extended to British-protected persons abroad as to British subjects" except in so far as the exercise of such protection would be inconsistent with "treaty, agreement, or statutory enactment"; and that as regards the Ottoman dominions there is nothing to prevent British-protected persons being placed on the same footing as British subjects in the matter of jurisdiction. The effect of this decision was to place subjects of Native States in the same position as British-Indian subjects. Our despatch of the 23 June 1905 agreed with the view of the Government of India that it was neither necessary nor desirable to enter into formal agreements with the Native States as to the exercise by us of rights of protection over Native States subjects; and that there was no need "at present" to raise the question of Afghanistan, in respect of which the Government of India had expressed the view that a formal agreement might be necessary.

In accordance with this decision the Foreign Office now issue passports to subjects of Native States, in the same terms as those issued to British-born subjects.[†]

An





2 (90)

(84)

As regards the specific enquiry of the Turkish Government :-

Gazetteer, Vol. 6, page 268.

Baluchistan is described in the Gazetteer as being divided into (1) British Baluchistan, consisting of tracts assigned to the British Government by treaty in 1879, (2) the Agency territories, composed of tracts which have been from time to time acquired by lease or otherwise brought under control and been placed directly under British officers, and (3) the Native States of Kalat and Las Bela.

The whole of the country thus falls within the definitions of "British India" or India, as given in the Interpretation Act of 1889 (52 and 53 Vict., cap. 63, sec. 18, viz:-

"The expression British India shall mean all "territories within H.M. dominions which are for the "time being governed by His Majesty through the Govern-"General of India (or through any governor) or other officer subordinate to "the Governor General of India.

"The expression India shall mean British India "together with any territories of any Native Prince "or Chief under the suzerainty of His Majesty "exercised through the Governor General of India (or through any governor) or "other officer subordinate to the Governor General "of India."

These definitions cover not only Baluchistan, but all the various territories on the North West border between the "administrative" and "external" frontiers. It seems impracticable in view of the decision of 1903 to draw any distinction between one class and another of the inhabitants of these territories according to the political status of the territory

they





(85) 3.

they inhabit, and to lay down that some are entitled to "protection" and others to "good offices" only. The proper way of protecting ourselves is by refusing protection abroad to applicants not provided with passports or certificates granted by competent British authorities.

In this connection, reference may be made to the letter from the Government of India to the Legation of Bangkok of 9 March 1907*, enclosing a list of territories, natives of which should be registered and given consular protection under the terms of the Agreement of 1899 with Siam, which recognised (Article X) the registration of "all persons of "Asiatic descent born within the Queen's dominions--- "or born within the territory of any Prince or State "in India under the suzerainty of or in alliance with "the Queen".

It may also be worth noting that as regards Kashgar, the Government of India instructed the Special Assistant in 1903 (before the decision of 1905) that "good offices may be employed, on behalf "of any person who is a Native of a Tribal area "within the frontier of India as defined in section(3) "27 of the General Clauses Act (1897) provided that "such a person is in possession of a certificate of "identity signed by a responsible officer".

Afghanistan. An attempt made in 1890 to establish our right to protect Afghans in the Ottoman Dominions, failed owing to the opposition of the Turkish Govt. The Ambassador at Constantinople was instructed by the Foreign Office that "any subjects of His Highness "who may travel beyond his dominions are clearly "entitled to British protection whenever they may

"have





86 4

"have cause to seek it. Such protection does not "give them the right to claim the benefit of the "Capitulations between Turkey and this country, but "it entitles them as British-protected persons to "receive British passports, and to have the aid and "support of Her Majesty's Diplomatic and Consular "officers in any difficulties which they may have with "the Ottoman authorities". Instructions were accordingly issued to the Consuls* and the Turkish Government was addressed on the subject. In reply* they asked for information as to the Treaty with the Amir on which our claim was based; and it further appeared that they were making enquiries of other Powers as to how far our Protectorate over Afghanistan was recognised by them. Lord Salisbury thereon instructed Sir W.White that it was undesirable that the Porte should raise this question with the other great Powers and that he should endeavour to find means to prevent this being done. Sir W.White thereon ceased to press for a settlement of the question, and was ~~himself~~ further instructed to address a Circular to Consular Officers stating that "it is "not desired to raise the question of protection of "Afghans unnecessarily and directing them before "acting on the instructions contained in the Circular "of 12 May 1890 to refer to you any particular case "that may arise". It should be added that in the course of the correspondence the Turkish Government, having been furnished with a copy of the letter of July 1880 to Abdur Rahman as showing our position with Afghanistan in respect of foreign relations, stated their views as follows in a Note of 1 Aug.1891:-

"As

Circular of 12 May 1890

Sir W. White's tel 6 April 1891

do. 6 April 1891

despatch 14 Oct 1891

⊕ Sir W. White's despatch of 8 Aug 1891. No. 327



87 5

"As this communication (i.e. the letter to the "Amir) contains no provisions conferring on British "Consular authorities a right of protection over "Afghans in Turkey, the Council of Ministers to "whom the question has been submitted, has arrived "at the conclusion that Afghans, finding themselves "already under the protection of the Khalifate, "should continue their enjoyment thereof".

(3353/06)

The latest occasion on which the question rose in a practical form was in 1906 when it was decided to refuse an application for a passport from an Afghan on the ground, not of policy, but because the information as to the applicant was not such as to justify our doing so. It was stated in our letter to the Foreign Office of 19 July 1906 on the subject that the general position was the same now as in 1891.

It is also observed that in the correspondence as to Siam, mentioned in the earlier part of this memorandum, it was expressly stated in the Govt. of India's letter to Mr. Paget that "bonâ fide subjects "of the Amir of Afghanistan should not be registered "as British subjects, but it is desirable, unless "you see any objection, that Consular officers should "extend their good offices to any Natives of "Afghanistan who may apply to them for Consular "assistance". As to Kashgar, the following instructions were sent to the Resident in Kashmir by the Govt. of India on the 9th December 1904, for the guidance of Mr. Macartney, who had shown a disposition to press unduly our right to protect Afghons:-

"I am to inform you that H.M. Secy. of State for "India has decided that the question of affording "British Consular protection to Afghans abroad is "not





88 6.

"not to be taken up with the Amir by Mr. Dane unless His "Highness raises it: and in that event, Mr. Dane is not to "promise more than that each case as it arises shall be at "once taken up and dealt with according to circumstances. "In the light of the above decision it becomes more than "ever desirable that Mr. Macartney should for the present "do no more than extend his good offices in an informal "and unofficial way to Afghans who may apply to him, and "who have also provided themselves with the necessary "certificates of identity, and I am to request that you "will instruct him accordingly."

As regards the Foreign Office proposal to say nothing about the Persian Gulf, it may be observed that in 1895* it was not thought advisable to furnish to the German Government any list of "Protectorates and Spheres of "Influence not forming Territories of Her Britannic Majesty", and that in 1898† we avoided meeting a demand of the French Post Office for an exhaustive list of British Colonies and Dependencies whether within or without the Postal Union.

*[illegible] 2 Dec '95 [illegible]

†[illegible] 5 May '98 [illegible]

P.S. Copy of a Minute by Sir W. Lee-Warner, dated 23 Jan. 1896, is attached, as to the protection of Afghans in Persia

Pol Dept
15 Feb. '04





Minute by Sir W.Lee Warner, dated 23 Jan.1896.

The protection of its subjects abroad is a branch of an independent State's right to self preservation. A state which has no foreign relations cannot take steps to protect its subjects abroad, therefore the state which diplomatically acts for it must arrange for the protection. But the state upon which a demand for protection is based has a right to demand from the intervening and demanding state proof that it has the right to intervene and to act for the state whose subject is to be protected. Not only so, but the sovereign of the subject who is to be protected must at least acquiesce in, and should probably solicit, the intervention of the Government which sets itself forward as the protector.

The British Government does not wish to produce, perhaps has not got, conclusive proof that it has the right to act for Afghanistan. The Afghan sovereign has not only not asked its intervention, but he still claims to provide his own foreign agents and to take measures for the protection in Persia of his subjects.

It seems to me that, as a matter of policy, we should not ask a Foreign Power to recognise British protection of any particular Afghan unless the Afghan subject claims such protection from us. If, even then, the Foreign Government demurs and demands proof of our right, we should either assert it on the request of the Afghan ruler who by his request would admit our right, or else in the absence of such request cease to press the claim as we did with Turkey. Meanwhile each case must be reported for orders.

If





If we protect Afghan subjects abroad, we must be prepared to guarantee the protection of the Foreign state's subjects in Afghanistan, a matter of some difficulty. For these reasons, I would take no action until the Amir complains. When he complains he will doubtless admit our right and duty to protect his subjects. This admitted we need fear no challenge from Turkey to produce our credentials.

I would await then the Amir's next move, and not half recognise his claims by asking him to appoint an Assistant to our Consul-General. It is enough for us that Persia accepts our particular recommendations in a friendly spirit. Until the Amir asks us to undertake the protection of his subjects and admits our right to intervene, we shall intervene only in particular cases. When he asks us we shall be more free to deal with any Foreign Government on the basis that Afghanistan admits its subordination to us.





India Office, London,
23rd June 1905.

Political,
No. 55.

To His Excellency the Right Honourable the Governor General of India in Council.

My Lord,

States in Ottoman Dominions of subjects of Native States in India.

With reference to your letter No. 65 (Foreign, External), of the 17th March 1904, in which your Excellency's Government urged the importance of laying down the principle that His Majesty's Government may require the recognition by the Sublime Porte of the subjects of Indian Native States as falling within the category of British subjects as defined in the Ottoman Order in Council of 1899, I enclose herewith a copy of correspondence* with the Foreign Office on the subject.

2. Your Excellency will see that, acting upon the advice of the Law Officers of the Crown, the Secretary of State for Foreign Affairs has issued circular despatches to His Majesty's representatives abroad explaining the terms of the circular Despatch of the 3rd July 1893, and informing them that His Majesty's Government consider that the same measure of protection may properly be extended to British-protected persons abroad as to British subjects, except in so far as the right or power to exercise such protection depends upon a treaty, agreement, or statutory enactment, which excludes, or cannot be construed as including, such protected persons. It is pointed out that the measure of the protection which may be accorded must depend upon the extent of the jurisdiction enjoyed by His Majesty's Government in the country where the protection is desired. With regard, however, to the Ottoman Dominions, His Majesty's Government hold that there is nothing in the Capitulations to prevent them from placing British-protected persons on the same footing as British subjects in the matter of jurisdiction; and they consider that the Ottoman Order in Council of 1899 in its definition of British subjects plainly asserts this right, which has not been disputed by the Turkish Government.

3. Adverting to the 7th paragraph of your Excellency's letter under reply, I agree with your Government in the view that the conclusion of

* To Foreign Office, dated 7th July 1904, with enclosure.
From ditto, dated 28th November 1904 (with enclosures).
From ditto, dated 27th December 1904 (with enclosures).
To ditto, dated 4th January 1905.
From ditto, dated 12th January 1905.
From ditto, dated 22nd May 1905 (with enclosures).

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formal agreements with the Native States on this subject is unnecessary and undesirable. The question of Afghanistan is on a different footing, and I note that your Government do not desire to raise it at present.

I have the honour to be,
My Lord,
Your Lordship's most obedient humble Servant,
(Signed) St. John Brodrick.



(92)

ENCLOSURES.

Enclosure No. 1.

India Office to Foreign Office.

India Office,
7th July 1904.

Sir,

I am directed by the Secretary of State for India in Council to forward, for the consideration of the Secretary of State for Foreign Affairs, the enclosed copy of a letter from the Government of India, No. 65, dated 17th March 1904, and its enclosures, together with the concerted papers* noted in the margin, and to make the following remarks.

* Enclosures in Foreign Secretary's letter, No. 18 M., dated 5th May 1904.
Note by Legal Adviser, India Office, dated 12th May 1904.
Political Resident in Turkish Arabia to Government of India, No. 553, dated 9th August 1903.
Government of India to Political Resident in Turkish Arabia, No. 1739 E., dated 8th October 1903.

2. It will be observed that the Government of India in their letter not only submit their views upon certain points which have been raised regarding the status in Turkish Arabia of persons who are subjects of the Native States in India, but further take occasion to discuss the wider question as to the principles which should govern the status of such persons in foreign countries generally, and it seems to Mr. Brodrick most convenient to consider this wider question first.

3. In reference to it I am to say that Mr. Brodrick concurs generally with the Governor-General in Council in the desire to see the subjects of the protected states of India treated abroad with the same consideration as the British Indian subjects of His Majesty, and he agrees entirely with the opinion that for this no formal consent of the rulers of those states is needed, nor is it desirable to seek it. But on the other hand it must be borne in mind that, though in recent times the British Government has, owing to the exigencies of the position, drawn to itself the exercise of the entire external sovereignty and of particular portions (in some instances even the great bulk) of the internal sovereignty of the Indian Ruling Chiefs, yet the British Parliament, the British Indian legislatures, the Courts in England and India, and the British authorities, political and administrative, have, down to the present moment, continued to treat the territories of those Chiefs as states lying beyond His Majesty's dominions, and the people of those territories as being the subjects of those Chiefs and not British subjects in the proper sense, though they or their rulers may be said to owe to the British Crown loyalty or allegiance in the wide meaning of these words.

I am to add that Mr. Brodrick is advised that a definition of "British subject," like that in Clause 3 of the Ottoman Order of 1899, referred to by the Government of India, involves no departure from that view—that it is merely a device adopted by the draftsman with a view to convenience of drafting in a case where those responsible for the Order consider that His Majesty has in some way or other acquired as against a foreign state the right to exercise within its territories, in respect of the subjects of Indian Native States, the same powers that He possesses in respect of British subjects. Its effect is not to convert the subjects of those states into British subjects, but simply to put them, for the particular purposes of the Order, and in so far as an Order of the kind can do so, on the same footing as British subjects.



4. This being the position, it appears to Mr. Brodrick that Lord Elgin's Government were right in holding, in their letter of the 8th October 1894 (referred to in paragraph 2 of the Government of India's letter now under consideration), that Sir T. Sanderson's letter to Mr. Martin of the 21st June 1893 governed the case of subjects of Indian Native States in countries like the Ottoman dominions, and that it is, from the very nature of the position, impossible for us, in dealing with such persons, to escape from the limitations mentioned in Sir T. Sanderson's letter.

5. It does not, however, I am to say, follow from this that the subject of an Indian Native State would, when in a foreign country, be left without adequate protection. Having regard to the relations existing between the British Government and the Native States, the subject of a Native State would, Mr. Brodrick presumes, be in a position to claim from us in any foreign country, whether in the Eastern or in the Western world, at least full "protection" in the more limited and proper sense in which the word is usually understood in States of the Western type, subject only to the exception as to statutory provisions mentioned by Sir T. Sanderson, which, in the case of the subject of a Native State, would not be likely to be important, nor could our diplomatic and consular agents refuse to extend such protection to him, except in circumstances in which they would deny it to a British subject. Further, as our claim to extend protection of this sort to the subject of a Native State stands on grounds independent of any sort of concession by a foreign state, Mr. Brodrick presumes that no foreign state would be likely to dispute it.

6. Assuming this to be so, it would be only in regard to the further measure of protection exercised in foreign states of the Eastern type—that is to say in regard to special privileges, the right to exercise extensive foreign jurisdiction and the like, for which we should have to rely on treaty, capitulation, grant, usage, sufferance, and so forth, that there would be room for any question, and it would be impossible to say, without making detailed inquiries, in what foreign countries and in regard to what classes of persons under our protection, our claim to exercise this further measure of protection has been, or is likely to be, disputed, and how far hardship or inconvenience has arisen, or is likely to arise, from this. It may be that there are places where our claim has not yet been recognised, and where it would be desirable for us to assert it or press for a concession; but Mr. Brodrick would be averse to the formulation of any principle which would commit us to taking this course everywhere, and in regard to all classes of persons under our protection. No doubt, as a rule, the grounds on which such a claim is recognised in the case of His Majesty's subjects, apply equally in the case of persons under His Majesty's protection, but this may not always be so. Again, there are classes of persons entitled to our protection, but who do not choose to claim it, and whom it may be best to leave to their own devices. Further, there are some tribes on the confines of India whom we regard as in some sense under our protection, or at least within our sphere of influence, but whose position with reference to us is not as yet clearly defined, and in regard to which questions of difficulty might arise. For these reasons Mr. Brodrick would prefer to wait and deal with each case as it arises with reference to its particular circumstances.

7. To turn now to the questions raised in Baghdad. Mr. Brodrick thinks it is by no means improbable, having regard to what is said in the enclosures to the Government of India's letter, and in the letter of the 22nd February 1904 from the Judge of the Supreme Consular Court at Constantinople, that any objections which have been raised to our claim to exercise, in respect to subjects of the Indian Native States and



(93)

others under our protection, the powers and jurisdiction which the Ottoman Order in Council of 1899 assumes us to possess, are simply the result of the ignorance or want of intelligence of the Turkish local officials; and the course he would accordingly propose to take, unless indeed Lord Lansdowne feels any doubt as to the correctness of the assumption made in the Order in Council, is to request the Government of India to instruct the Consul-General at Baghdad that if in the ordinary course any case of the subject of an Indian Native State or other protected person comes before him to which the Order in Council applies, and which seems to him in other respects a proper one to be dealt with under that Order, he should not hesitate so to deal with it; and that if any serious difficulty is raised by the local officials he should consult the Judge of the Supreme Consular Court.

8. The questions referred to in the correspondence as to the acquisition by persons under British protection of the Turkish nationality, and as to the holding of land by persons who have not acquired that nationality, are collateral matters, as to which Mr. Brodrick does not propose to issue any instructions unless they should present themselves in a more definite shape; but seeing that the Turks possess a regular naturalisation law, the former question ought to be a simpler one than it is in other Oriental countries.

I have, &c.,
A. GODLEY.

The Under Secretary of State,
Foreign Office.

Annex.

Memorandum by Legal Adviser, India Office.

It must, I think, be admitted that there are good reasons why subjects of Native States should, when found in foreign countries, enjoy the same measure of protection as is accorded to British subjects. The matter is discussed in Hall's Treatise on Foreign Jurisdiction, Section 100, and the view taken by him is similar to that urged by the Government of India. Nor do I see any objection to the proposal which is made as well with reference to subjects of Native States in India as to subjects of other protectorates, provided that it is clearly understood that it is only in foreign countries that they are deemed to be British subjects.

It is another question whether foreign governments are bound to treat as British subjects persons who do not really come within that designation. That must, I think, depend on the terms of the treaty or other understanding between the British Government and the government concerned. I can hardly think that the expression "subject of England" was when originally used in the Capitulations intended to include subjects of protected states, but I presume that the expression has since been understood to have that extended meaning, or that otherwise the Ottoman Government has consented to extend to such persons privileges originally conceded to British subjects only. I presume that this must be so, for otherwise the term "British subject" used in the Order in Council of 1899 could not well have had assigned to it the meaning given in Clause 2. I suggest that it should be ascertained how it came to have that meaning assigned to it.

I would also suggest that it may be desirable to ascertain in what respects subjects of Native States are at a disadvantage as compared with natives of British India, whether they are at a disadvantage in matters other than those to which the Order in Council relates, and whether the certificate given under that Order is ever questioned by the Ottoman authorities. It would rather seem that the difficulty



arises from the neglect on the part of subjects of Native States to obtain certificates of registration.

H. H. SHEPHARD.

13th May 1904.

Enclosure No. 2.

Foreign Office to India Office.

Foreign Office,
26th November 1904.

Sir,

With reference to your letter of the 7th July last, respecting the status in the Ottoman dominions, and also in foreign countries generally, of subjects of the Native States in India, I am directed by the Marquess of Lansdowne to transmit to you, to be laid before the Secretary of State for India in Council, a draft reference* to the Law Officers of the Crown, forwarding for their consideration the correspondence received with your letter, together with a Memorandum on the question which has been prepared by Mr. Hurst, Assistant Legal Adviser to this Department.

* *See* Annex 1 in Enclosure 6 for Draft as issued.

I am to request that Lord Lansdowne may be favoured with any observations or suggestions which the Secretary of State for India in Council may have to make with regard to the terms of the proposed reference.

I am, &c.,
F. A. CAMPBELL.

The Under Secretary of State
for India.

ANNEX 1.

DRAFT REFERENCE TO LAW OFFICERS OF THE CROWN.

(*See Annex 1 in Enclosure No. 6.*)

ANNEX 2.

LIST OF PAPERS SUBMITTED TO LAW OFFICERS OF THE CROWN.

(A) India Office - - -	7th July 1904. (*See* Enclosure No. 1.)
(B) Enclosure 1, Government of India -	17th March 1904.*
(C) Enclosure 2, Major Newmarch -	No. 702, 2nd November 1903.* No. 741, 10th " ".* No. 24, 7th January 1904.*
(D) Enclosure 3, Major Newmarch, No. 287	5th April 1904.*
(E) Enclosure 4, Legal Adviser, India Office	13th May 1904. (*See* Annex in Enclosure No. 1.)
(F) Enclosure 5, Correspondence -	1893-94.*
(G) Memorandum, Mr. Hurst - -	3rd November 1904.
(H) Law Officers' Report - -	8th June 1890.†
(I) Foreign Office Circular - -	3rd July 1893.*
(J) Ottoman Order in Council -	1899.*
(K) Treaty with Muscat - -	1873.*
(L) " " Siam - -	1899.*
(M) " " Zanzibar - -	1886.*
(N) Foreign Marriages Bill - -	†
(O) Naturalization Act - - -	1870.*
(P) Capitulations (Ottoman Dominions)	*
(Q) Law Officers' Report - -	18th August 1904.†

* Copy not enclosed.
† One copy sent.



ملف رقم ٦٦٤ لسنة ١٩٠٤ "مناطق شبه الجزيرة العربية الخاضعة للحكم العثماني: أوضاع الأشخاص تحت الحماية البريطانية" [٩٤و] (١٩٢/٤٠٦)

(94) (90)

Annex 3.

Memorandum by Mr. Hurst on India Office Letter of 7th July 1904.

I have had to keep these papers a long time, as they have involved a considerable amount of study on somewhat difficult questions.

The proposal to which the India Office ask Lord Lansdowne to agree is contained in paragraph 7 of their letter, and is in substance that the Consul-General at Baghdad should be instructed that in ordinary cases where he considers it proper to do so, he should treat the subjects of Indian native states and other British protected persons as British subjects, adopting in this respect the same position as the Ottoman Order in Council 1899.

(Paper J.)

To this proposal I think agreement should be expressed, but the letter and its enclosures discusses the general status abroad of British-protected persons, and I do not think we can avoid offering observations on the general questions raised. It is impossible to compare the letter from the Government of India to the India Office with that from the India Office to this Office without seeing that there is a considerable divergence between them, and speaking for myself, I think the measure of protection to be afforded abroad to natives of the Protected States in India is better defined in the letter of the Government of India than in that to which we must now reply. It is well to bear in mind that the question involved affects not only the inhabitants of the Native states in India but the inhabitants of all the British Protectorates as well.

Reference is made in both the letters under review and also in other of the enclosures to a circular issued by this Office in 1894, with regard to the measure of protection to be afforded to natives and vessels of a foreign state, such as North Borneo, which is under British protection. Both parties have felt that the limitations described in it must also apply to the natives of the Protected States in India. This circular was based on a Law Officers' opinion obtained in view of certain questions which a director of the British North Borneo Company had put to Sir E. Grey soon after our protectorate of that territory had been declared. The Law Officers' Report dealt with the status abroad of natives of protectorates and spheres of influence generally, and laid it down that a native of the former was entitled to British protection abroad from Consular Officers except in so far as the action of such officers is founded on statutes or treaties referring only to British subjects, and they added that such a native cannot be considered to be a British subject so far as the application of such treaties or statutes is concerned.

(Paper I.)

(Paper H.)

This latter statement, which is embodied also in the circular, is, I think, liable to misapprehension, and I am inclined to think it has been misunderstood. It must be read in connection with the previous sentence and in that previous sentence I think that British subject is used in its technical sense.

There are some treaties under which Consuls act where the word "British subject" is not used at all; certainly one and perhaps more (Muscat 1873, Siam 1899) where the word has been extended by agreement to include some who are only protected persons, and others where it has certainly been treated by both the contracting parties as not having been employed in its technical sense, *e.g.* Zanzibar (1886).

(Papers K and L.)

(Paper M.)



I cannot think that the Law Officers intended that the words "British subjects" in such treaties should be construed in a sense different from that intended by the parties.

The limitation contained in the Law Officers' opinion, and repeated in the circular only, I think, amounts to this, that the Secretary of State cannot confer on protected persons abroad benefits which by statute or treaty are restricted to those who are British subjects according to the technical meaning of that word in English law, *e.g.*, a Zanzibari cannot be treated as a British subject for the purposes of the Foreign Marriage Act, nor can a native of Uganda be registered as a British subject in Siam, as the latter would be contrary to the Agreement of 1899.

(Paper N.)

(Paper L.)

It seems to me that the position in law of British protected persons abroad may be summarized as follows: that the Secretary of State is entitled to extend to them the same measure of protection as to British subjects, except in so far as the terms of either a treaty or a law prevent it, but that, not being British subjects, they are not entitled to such protection as of right, and the Secretary of State may, if he think fit, treat them differently.

This is, I think, consistent with the view the Law Officers entertained in 1893; and it approximates to the status of the natives of German Protectorates as defined by Count Metternich in his communication of 17th August of this year: "Natives in the German "Protectorates have accordingly, even as regards their persons, no "share in those rights which the German laws grant to German "nationals (Reichsangehörigen) as such. They are therefore not "'Reichsangehörigen' in this more restricted legal sense. From the "point of view of International Law, however, as being subjects of "of the Empire, they are considered as 'Angehörigen' thereof in the "broader sense, and as such have a claim to Imperial protection even "outside the Protectorate."

The view I have indicated above appears to me to provide adequately the elasticity which paragraph 6 of the India Office letter shows to be necessary, as it leaves the Secretary of State a discretion as to what measure of protection to afford; it also leaves no scope for friction with the local sovereign, as the decision rests wholly with the Secretary of State, and it is only where there is a distinct limitation in the terms of the treaty to that effect, that the local sovereign can claim that protected persons should be treated differently to British subjects. It also obviates all necessity for any special or further agreements being concluded with the Indian feudatory princes, a step the Indian Government deprecates.

Applying these principles to the case of the natives of protected States in India, it will, in my opinion, be found that there is no limitation on the power of the Secretary of State to place them on the same footing in the Ottoman Dominions as British subjects in the matter of protection and jurisdiction.

There is nothing that I can see in the Capitulations to show that "the English" means "British subjects" in the sense in which that word is used in the Naturalisation Act, 1870. The date of the Capitulations is 1641, a period anterior to the formation of the precise rules about British nationality that now obtain. Further, I think it is quite impossible to read Articles XXXIII.–IV. of the Capitulations without seeing that there was no intention in the mind of the Porte to limit the privileges of that treaty to the "English," in any narrow sense, for the preamble to Article XXXIV. expressly allows "the merchants of Spain, Portugal, &c. . . . and all other

(Paper P.)

(Paper O.)



(95)

merchant strangers" to have recourse to the protection of the English Consuls.

Lastly, in their opinion of 18th August 1904, the present Law Officers distinctly laid it down that persons might be entitled to the benefit of the Capitulations who are not British subjects in the technical sense.

(Paper Q.)

I think it is clear from the above that there is nothing in the terms of the Capitulations to prevent the full measure of protection being afforded to British protected persons that is given to British subjects.

I agree with the view expressed in the India Office letter that the inclusion of "British protected person" in the term "British subject" in the Ottoman Order in Council 1899 does not convert them into British subjects, but it is to my mind a most distinct assertion of the right of His Majesty as against the Porte to place British protected persons on the same footing as British subjects.

It must not be forgotten that the right of these Kashmiris and others to protection could not be challenged by the Porte if Kashmir were annexed and incorporated in the British dominions. The Native States in India enjoy their present position merely because it is part of the policy of the Indian Government not to annex; but if that policy were reversed, and annexation of the Native States decided on, no foreign Power would be allowed to raise objections, and the treatment to be accorded to their inhabitants when abroad appears to me to be a matter equally outside the scope of foreign interference, whether such States are annexed or not.

With regard to registration, I think the same policy might be suggested as has been adopted for China, viz., that protection and registration should go together.

If a Kashmiri settling in the Ottoman dominions prefers to identify himself with the Native population and to refrain from claiming whatever rights to British protection he may have, I see no reason why he should not be allowed to; but if he does, he should not be permitted to demand British protection the moment he gets into trouble and needs consular assistance. He should not be recognized (in the absence of exceptional circumstances) until he has registered himself, and protection should be limited to events subsequent to the registration.

C. J. B. H.

3rd November 1904.

Enclosure No. 3.

Foreign Office to India Office.

Foreign Office,
27th December 1904.

Sir,

With reference to my letter of the 20th ultimo, I am directed by the Marquess of Lansdowne to transmit to you, to be laid before the Secretary of State for India in Council, a copy of a Despatch from His Majesty's Chargé d'Affaires at Constantinople on the subject of the protection to be afforded to Afghans and to subjects of the Native States in India.

I am to state that his Lordship is awaiting the expression of Mr. Secretary Brodrick's opinion with regard to the terms of the proposed reference to the Law Officers of the Crown, the draft of which accompanied my letter above referred to.

I am, &c.,
F. A. CAMPBELL.

The Under Secretary of State for India.



Annex 1.

Mr. Townley to Foreign Office.

No. 45 (Treaty). Constantinople,
My Lord, 12th December 1904.

His Majesty's Consul-General at Bagdad and the Government of India have been in correspondence with regard to the amount of protection to be afforded to Afghans and to the subjects of the Native Indian rulers.

Major Newmarch has transmitted to the Embassy copies of this correspondence which includes a letter from the Government of India to the Secretary of State, dated 17th March last, advocating that the limitations imposed by the Foreign Office Circular (Treaty) of 3rd July 1893 should be modified and that British officials should extend to the subjects of a protected Native State the same degree of protection as they claim to exercise in the case of British Indian subjects of the Crown.

As from Major Newmarch's reports there seems a disposition on his part to anticipate by acts of registration and otherwise the conclusions of His Majesty's Government with regard to this question, I have thought it well to address him a despatch, of which I have the honour to enclose a copy, calling attention to the existing instructions on the subject.

With regard to the question of Afghans, the matter is at present simple, but with regard to the subjects of Native Protected States of India, I am advised that the Ottoman Order in Council 1899, placing them for certain purposes on the same footing as British subjects, somewhat complicates the question. I do not wish on this occasion to express any opinion with regard to the policy advocated by the Government of India in their letter to Mr. Secretary Brodrick above referred to, as it may not even have reached your Lordship, but I should be glad to be informed, as Major Newmarch has raised this question, whether I am right, in view of the Order in Council above quoted, in assuming in my despatch to that officer that the instructions contained in the Foreign Office circular of 3rd July 1893 still hold good, and have undergone no change in the nature of their application to the status of subjects of Native Indian States in the Ottoman Dominions.

I am, &c.,
WALTER TOWNLEY.

The Marquess of Lansdowne, K.G.,
&c., &c., &c.

Annex 2.

Mr. Townley to Major Newmarch.

Constantinople,
Sir, 11th December 1904.

With reference to your Despatch No. 65, of the 21st October, and more especially to the last paragraph of the letter to the Government of India enclosed therein, recording the registration of an Afghan, I would draw your attention to the Embassy circulars to Consuls of 12th May 1890 and 30th November 1891, respecting the extent to which persons of Afghan nationality are entitled to British protection in the Ottoman dominions.

I transmit herewith copies of these circulars for facility of reference, and I would be glad if you would adhere to the instructions contained therein so long as they have not been superseded.

With regard to the more general question raised in your Despatches No. 42 of 21st July, and No. 65, of the amount of protection to be



accorded to subjects of States under British protection, His Majesty's Embassy have not received any intimation from the Secretary of State for Foreign Affairs modifying the instructions contained in his circular of 3rd July 1893 (quoted in the Government of India's letter to Mr. Secretary Brodrick of 17th March last) which must accordingly guide their action should any question of this nature be brought before them.

I have no doubt that the great caution and tact enjoined on you by the Government of India in dealing with this matter will deter you from taking any avoidable action likely to raise any awkward discussion with the Ottoman authorities as to the status in Turkey of the category of persons in question, more especially until His Majesty's Government have expressed their views in reply to the Government of India's representations.

I am, &c.,
WALTER TOWNLEY.

Major Newmarch,
&c., &c.

ANNEX 3.

Circular to Consuls.

Constantinople,
12th May 1890.

Sir,

Some misunderstanding has recently arisen with regard to the extent to which persons of Afghan nationality are entitled to British protection in the Ottoman dominions. In order that all doubt on the subject may be removed, I beg to inform you that you are hereby instructed to extend to subjects of the Amir sojourning in the Ottoman Empire your unofficial countenance and protection whenever needed. Such protection would not give them the right to claim the benefit of the capitulation between Great Britain and Turkey, but it would entitle them, as British protected persons, to receive British passports, and to have the aid and support of His Majesty's Consular officers in any difficulties which they might have with the Ottoman authorities.

Those who were originally Afghans by race, and are now subjects of the Empress of India, will be entitled to the full enjoyment of rights which belong to such subjects in His Majesty the Sultan's dominions, and to the full benefit of the capitulations, and the exercise of such rights is distinctly claimed for them. Your action in matters affected by this Circular will consequently be guided by these instructions.

You will communicate a copy of these instructions to the Consular officers under your orders.

I am, &c.,
W. A. WHITE.

ANNEX 4.

Circular to Consuls.

Constantinople,
20th November 1891.

Sir,

With reference to the Circular I addressed to you on the 12th May 1890, instructing you to extend to subjects of the Amir of Afghanistan your unofficial countenance and protection whenever needed, I have to inform you that it is not desired to raise the question of protection of Afghans unnecessarily, and I beg that, before acting on the instructions in my above-mentioned Circular, you will refer to me any particular case that may arise.

I am, &c.,
W. A. WHITE.



Enclosure No. 4.

India Office to Foreign Office.

Sir,

India Office,
4th January 1905.

I am directed by the Secretary of State for India in Council to acknowledge the receipt of Mr. Campbell's letters of the 26th November and 27th December last, on the subject of the status in the Ottoman dominions, and also in foreign countries generally, of subjects of the Native States in India.

In reply, I am to say that Mr. Secretary Brodrick would merely suggest, for Lord Lansdowne's consideration, that in point 1 of the reference to the Law Officers of the Crown the words "placed upon it in Mr. Hurst's Memorandum, viz.," should be omitted; and that for the words "terms of either a Treaty or a British Statute prevent it," the following words should be substituted, viz., "right or power to "exercise such protection depends upon a Treaty, Agreement, or Law, "which excludes or cannot be construed as including such protected "persons." He would, further, observe with regard to the reference in Mr. Hurst's Memorandum to the Muscat Agreement of 1873, that Article 2 of the existing Muscat Treaty of 1891 expressly states that subjects of Native States in India shall, for the purposes of that Treaty, be regarded as British subjects.

I have, &c.,
A. Godley.

The Under Secretary of State,
Foreign Office.

Enclosure No. 5.

Foreign Office to India Office.

Sir,

Foreign Office,
12th January 1905.

I am directed by the Marquess of Lansdowne to acknowledge the receipt of your letter of the 4th instant, with regard to the proposed reference to the Law Officers of the Crown of the question of the status in the Ottoman dominions, and also in foreign countries generally, of subjects of the Native States in India.

His Lordship desires me to convey his thanks to the Secretary of State for India in Council for his observations and suggestions, which have been adopted; and I am to add that a copy of the Law Officers' Report will, when received, be communicated to Mr. Brodrick for his confidential information.

I am, &c.,
F. A. Campbell.

The Under Secretary of State
for India.

Enclosure No. 6.

Foreign Office to India Office.

Sir,

Foreign Office,
22nd May 1905.

With reference to my letter of the 12th January last, I am directed by the Marquess of Lansdowne to transmit to you, for Mr. Brodrick's confidential information, a copy of the Law Officers' Report on the question of the status in the Ottoman dominions, and also in foreign countries generally, of subjects of the Native States in India.



I am at the same time to enclose copies of circular despatches, which his Lordship has addressed to His Majesty's Diplomatic and Consular officers abroad on the subject.

I am, &c.,
F. H. VILLIERS.

The Under Secretary of State
for India.

Annex 1.

Foreign Office to Law Officers of the Crown.

Foreign Office,
16th January 1905.

Gentlemen,

I have the honour, by direction of the Marquess of Lansdowne, to transmit to you a letter from the India Office and its enclosures, together with the other papers noted in the accompanying list* which relate more particularly to the question of the status in the Ottoman dominions of subjects of the Native States in India. The wider question of the status of such persons in foreign countries generally is also discussed.

* See Annex 1 in Enclosure 2.

It will be seen from Enclosure 2 in the India Office letter (Paper C.) that Major Newmarch, Political Resident in Turkish Arabia and Consul-General at Bagdad, has recently referred, for the consideration of the Government of India, certain cases arising within his jurisdiction involving questions as to the Courts before which such persons should be tried, the administration of their estates, and generally as to the degree of protection which should be accorded them.

A further despatch from Major Newmarch of the 7th April 1904 (Paper D), incloses the opinion of the Judge of the Supreme Court at Constantinople on these points.

The views of the Government of India, both on the questions thus raised and also on the wider question of the protection in foreign countries of the subjects of Indian Native States, are fully set forth in their letter of the 17th March 1904 (Paper B).

A note by the Legal Adviser, India Office, of the 13th May 1904 (Paper E), is also enclosed; while the views and suggestions of the Secretary of State for India in Council are contained in the India Office letter of the 7th July 1904 (Paper A), which, in forwarding the above correspondence, encloses in addition correspondence which had passed between the Political Resident in Turkish Arabia and the Government of India in 1893–1894 (Paper F), when the matter was previously under consideration.

A memorandum, which has been drawn up by Mr. Hurst, Assistant Legal Adviser to this Department, is also enclosed (Paper G).

The further papers (H to Q) are those referred to in the foregoing correspondence.

I have the honour to request that you will be good enough to take these papers into your consideration, and that you will favour Lord Lansdowne with your opinion on the following points:—

1. Whether the opinion of your predecessors expressed in their Report of the 8th June 1893 (Paper H), paragraph 1, bears the interpretation: That the Secretary of State is entitled to extend to British-protected persons abroad the same measure of protection as to British subjects except in so far as the right or power to exercise which protection depends upon a treaty, agreement, or law which excludes "or cannot be construed as including such protected persons," but that not being British subjects, they are not entitled to such protection as of right;
2. Whether, having regard to the terms of the capitulations, the Secretary of State has the power to place such persons on the same footing in the Ottoman dominions as British subjects in the matter of protection and jurisdiction.

16021. D



His Lordship will also be glad to be favoured with any observations of a general nature which you may desire to offer upon the papers now submitted to you.

I am to add that this reference has been submitted to the Secretary of State for India in Council for his observations, and that Mr. Brodrick concurs in its terms.

I have, &c.,
F. A. CAMPBELL.

The Law Officers of
The Crown.

Annex 2.

Law Officers' Report.

1. We do not think that our predecessors in their Report of the 8th June 1893, laid down that British-protected persons abroad were not entitled as of right to protection, and, in our opinion, British-protected persons are so entitled.

When the whole control of foreign relations has been assumed by His Majesty's Government it appears to us that the duty of protection follows. What measure of protection can be given must depend upon the extent of the jurisdiction enjoyed by His Majesty's Government in the country where the protection is desired. If that jurisdiction is confined to those who are, in the strict technical sense of our municipal law, British subjects, it cannot be exercised in respect of protected persons.

2. We see nothing in the capitulations to prevent the Secretary of State from placing British protected persons on the same footing in the Ottoman dominions as British subjects in the matter of protection and jurisdiction, and we think that the Ottoman Order in Council of 1899, in its definition of "British subject," plainly asserts this right which, so far as we know, has not been disputed by the Porte.

3. We think that the right asserted in the Order in Council to treat protected persons in the Ottoman dominions as on the same footing with British subjects should be adhered to.

R. B. FINLAY.
EDWARD CARSON.

Royal Courts of Justice,
17th February 1905.

Annex 3.

Circular to Diplomatic and Consular Officers Abroad.

Circular (Treaty).

Foreign Office,
22nd May 1905.

Sir,

On the 3rd July 1893,* a Circular (Treaty) despatch was addressed by the Earl of Rosebery to His Majesty's Representatives abroad, inclosing for their information and guidance a copy of correspondence with Mr. R. B. Martin, M.P., respecting the assistance and protection to be afforded by His Majesty's Diplomatic and Consular Officers to natives and vessels of a foreign state which is under British protection, and the conduct of whose foreign relations is under the control of His Majesty's Government.

Questions have recently arisen with regard to the correct interpretation to be placed on paragraph 1 of the letter to Mr. Martin of the 21st June

* India Proceedings, October 1894, No. 134 (External).



1893 (Enclosure 2 in the circular despatch above referred to). I am therefore directed to inform you that His Majesty's Government consider that the same measure of protection may properly be extended to British-protected persons abroad as to British subjects, except in so far as the right or power to exercise such protection depends upon a treaty, agreement, or statutory enactment, which excludes, or cannot be construed as including such "protected persons."

When the whole control of the foreign relations of a state has been assumed by His Majesty's Government, it is apparent that the duty of protecting the natives or subjects of that State in other countries must also be assumed. What measure of protection can be given must depend upon the extent of the jurisdiction enjoyed by His Majesty's Government in the country where the protection is desired. It is only where that jurisdiction is confined to those who are, in the strict technical sense of our municipal law, British subjects, that it cannot be exercised in respect of protected persons.

I am, &c.,
(For the Marquess of Lansdowne)

Annex 4.

Circular to Diplomatic and Consular Officers Abroad.

Foreign Office,
22nd May 1905.

Sir,

With reference to my Circular (Treaty) despatch of to-day's date respecting the assistance and protection to be afforded to natives of foreign States under British protection, I have to inform you that there appears to be nothing in the Capitulations to prevent the Secretary of State from placing British-protected persons on the same footing in the Ottoman dominions as British subjects in the matter of protection and jurisdiction, and His Majesty's Government hold the view that the Ottoman Order in Council of 1893, in its definition of "British subject," plainly asserts this right, which, moreover, has not been disputed by the Porte.

I am, &c.,
(For the Marquess of Lansdowne)





(99)

Extract from Section 3, Ottoman Order in Council.
9 Aug. 1899.

"British subject" includes a British protected person, that is to say, a person who either (a) is a native of any Protectorate of Her Majesty, and is for the time being in the Ottoman dominions; or (b) by virtue of Section 15 of "The Foreign Jurisdiction Act, 1890", or otherwise enjoys Her Majesty's protection in the Ottoman dominions.

Section 15, Foreign Jurisdiction Act, 1890.

15. Where any Order in Council made in pursuance of this Act extends to persons enjoying Her Majesty's protection, that expression shall include all subjects of the several princes and states in India.





Register No. 2696

Minute Paper.

Political Department.

Letter from F.O.

Dated 22 / Rec. 23 } Feb. 1907

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	27 Feb.		Arabia
Secretary of State			Refusal of Turkish authorities,
Committee	28	AG	Hodeida, to recognise natives
Under Secretary	5 Mch.		of Hadramaut as British
Secretary of State	6	AG	protected persons
Council Box	6.		

Copy to India 15 March 07

The Foreign Office, on the advice of the Law Officers, has ruled that the same measure of protection may properly be extended to British protected persons as to British subjects in Turkey. In the case of Omar Bazaar it was held that a native of the Hadramaut was prima facie a British protected person and entitled to protection unless the British local authorities decided that he had forfeited the

Previous Papers:—



right by undue delay in claiming it,
and provided that the protection should
not be retrospective in its effect.

The cases of Mahomed and Ahmed
bin Saleh seem to be on all fours with
that of Omar Basar. and it is proposed
to concur in the course ~~proposed~~ which the Secy. of State
proposes to adopt.

[H. M. Chargé d'Affaires at Constantinople
appears to have written two despatches on the
same day with the same number regarding
this question; one dated "Constantinople", the
other "Pera".

In the first he proposes to adopt the course
which the F.O. propose to approve viz. to approve Mr.
Richardson's proceedings and so to inform the Porte, with
the request that they will instruct their Hodeidah officials to
recognise the men as British protected persons —
In the "Pera" despatch Mr. Barclay says that he has no
knowledge of the instructions of 1905. and that, if the L.O.
did indeed give the opinion that protected persons are ~~[illegible]~~ entitled
under the Order in Council to the same protection as British subjects, such
a claim has never been put forward by the Embassy, nor would the
Porte admit it. This question does not, however, arise
in the cases of the two men now in question.]

Dft. to the F.O.

(101) (98)

13 March 1907

U. S. of S.
F.O.

Sir,

I am directed by the Secretary of State Mr. Morley to acknowledge Sir E. Grey's letter of the 22nd February last (No. 1406) relating to the refusal of the Turkish authorities at Hodeida to recognise natives of the Aden Protectorate as British protected persons.

In reply I am to say that Mr. Morley concurs in Sir E. Grey's proposal that Vice-Consul Richardson's action in the matter should be approved, and that the Sublime Porte should be informed that

Approved Pol. Com'tee.
5 MAR. 1907

Approved Council
12 March 07



that that officer's proceedings
in the matter of Mahomed and
Ahmed bin Saleh were correct,
~~and that the Turkish Govt.~~
& should be requested (immediately)
to instruct the local authorities
to recognise these persons as
being entitled to British protection
(Sd) A Godley

to dwt



2696

In any further communication on this subject, please quote
No. 1406.
and address—
The Under-Secretary of State,
Foreign Office,
London.

FOREIGN OFFICE
February 22nd, 1907.

Sir:-

With reference to the letter of June 6th,1905, from this Office relative to the grant of a passport by the Resident at Aden to Omar Basar, a native of Haidramaut, I am directed by Secretary Sir Edward Grey to transmit to you herewith copy of a despatch from His Majesty's Chargé d'Affaires at Constantinople forwarding copies of three reports from His Majesty's Vice-Consul at Hodeida, respecting the refusal of the local Authorities to recognise natives of that State as British protected persons.

Mr.Barclay proposes that Mr. Richardson's action in these cases should be approved and that the Sublime Porte should be informed that that Officer's proceedings in the matter of Mohammed and Ahmed ba Saleh

The Under Secretary of State,
India Office.





Saleh were correct and should be requested immediately to instruct the local Authorities to recognize those persons as being entitled to British protection.

Sir E.Grey proposes, subject to the concurrence of Mr. Secretary Morley, to authorise His Majesty's Ambassador to act as suggested by Mr. Barclay.

I am,

Sir,

Your most obedient,

humble Servant,





(104)

Copy.

No. 9.

(1406)

CONSTANTINOPLE,
January 7th, 1907.

Sir:-

I have the honour to transmit herewith, copies of three despatches from His Majesty's Vice Consul at Hodeida respecting the refusal of the local authorities to recognize natives of Shehr and Makalla as being under British protection.

In view of the arrangement made with those States in 1888 and of the circulars issued by your predecessor on the 22nd May 1905 respecting the treatment of natives of British protected States, I propose to inform Mr. Vice Consul Richardson that he is justified in according to natives of Shehr and Makalla the same protection that he would accord to British subjects. I propose also to inform the Sublime Porte that in the case of Mahomed and Ahmed Ba Saleh, respecting which they have made representations to His Majesty's Embassy Mr. Richardson's action, as reported in his despatch No.97 of November 21st

Sir E. Grey, Bart. M.P.
&c., &c., &c.



21st last was correct, and that I trust that they will send immediate instructions to the local authorities to recognize those persons as under British protection.

I should be glad to learn whether these instructions would have your approval.

I have, &c.,

(Signed) G. Barclay.



105

No. 9.

P E R A,
January 7th, 1907.

Sir:-

I have the honour to transmit herewith copy of despatches from His Majesty's Vice Consul at Hodeida respecting the refusal of the local authorities to recognise natives of Shehr and Makalla as being under British protection. It would appear from Mr. Richardson's despatches that it was decided by His Majesty's Government in communication with the Government of India in 1903, that these persons were entitled to British protection, but as I cannot find that this decision was made known to His Majesty's Embassy at the time and as it is contrary to that previously arrived at by His Majesty's Government and communicated to His Majesty's Ambassador in Lord Lansdowne's despatch No.266 of September 28th, 1903, I should be glad to receive your instructions on the subject.

Mr. Richardson says that in the opinion of the Law Officers protected persons are under the Order in

Council

Sir E. Grey, Bart. M.P.
&c., &c., &c.



Council 1899 entitled to the same protection as that afforded to British subjects. If the Law Officers are correctly quoted this would seem to imply that all protected persons are entitled to the full benefits of the Capitulations between Great Britain and Turkey, including for instance the subjects of the Amir of Afghanistan. No such claim has hitherto been put forward by His Majesty's Embassy and it will certainly not be accepted by the Sublime Porte.

I have, &c.,

(Signed) G. Barclay.



CAMARAN.

November 21st, 1906.

No.97.

Sir:-

I have the honour to submit herewith a report on the case of the two persons trading at Hodeida, viz. Mahomed and Ahmed BaSaleh, on whose behalf this Vice-Consulate recently intervened, and to which reference is made in the Porte's Note Verbale No.57 dated the 19th September to His Majesty's Embassy, a copy of which was transmitted to me in Mr. Tilley's despatch of the 25th ultimo.

The two above-mentioned merchants were registered last March for the first time in the Vice-Consulate during my absence on leave, but the action of my locum tenens was justified by the fact that these persons produced passports then issued to them by the Political Resident at Aden, describing them as "British protected subjects."

In August last I transmitted a copy of a petition received from the two persons referred to, relating to

a

His Excellency

George Head Barclay, C.M.G.,

Constantinople.



a claim against an Ottoman subject, to the local authorities with a request that the same be passed on to the Commercial Tribunal for disposal. The Acting mutasarrif returned the petition to me, declaring that the applicants were known locally as Ottoman subjects.

Subsequently at a business interview with the Acting Governor, I mentioned the case in question and pointed out that the two brothers, Mahomed and Ahmed BaSaleh were neither Ottoman subjects by birth, nor had they accepted such nationality by naturalization or through acquiring a domicile, in accordance with the Ottoman Law of Nationality. On the contrary, I added, they were subjects of the State of Hydramaut, which enjoys His Majesty's protection. Mahmoud Bey, then officiating as mutasarrif, contended that Mahomed BaSaleh had been an assessor at one time in the local commercial Court, and that his brother Ahmed BaSaleh had been a member of the Hodeida Legislative Assembly. I replied that I did

not



(107)

not consider these qualifications sufficient to establish a case in favour of their Ottoman nationality, which could only be based on the Ottoman laws relating thereto.

I ascertained later from Mahomed BaSaleh that he had accepted many years ago for a short time, an honorary position as Assessor in the Tribunal of Commerce at the request of the authorities, but that he had never acknowledged being a Turkish subject.

I then proposed that a joint enquiry be instituted to examine and report on the merits of the two persons whose nationality was under dispute, as was done in the case of certain Indians in 1902, but the Acting Governor did not appear disposed to resort to this course.

I reserved the case for discussion with the Vali at Sana'a, but His Excellency informed me that the matter had already been reported to Constantinople, for orders.

Mahomed and Ahmed BaSaleh are natives of Makulla

in

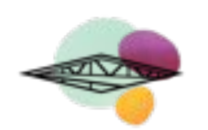


in Hydramaut, and have set themselves up in business at Hodeida for many years, although at the same time, it must be added, that the brothers have not established permanent residence at that town. They are partners in business, and while one remains here for a few years in charge of the firm, the other lives in his native town; Ahmed Baßaleh is now absent from Hodeida, being at Makulla.

These two merchants did not originally come from Egypt as erroneously stated in the Porte's Note Verbale referred to, although they have visited that country in the interests of their trade. I am informed that they came from Aden where they had settled for some time.

Your Excellency will no doubt remember that some correspondence occurred in the early part of last year between His Majesty's Foreign and India Offices on the subject of the status of British protected subjects in the Ottoman Dominions and that it was ultimately decided to register natives of Shahr and Makulla as protected subjects in the Turk-

ish



Turkish Empire.

The Government of India, in view of Lord Lansdowne's opinion in the recent case of Sheik Omar Bassar, where the latter was granted a passport at Aden to Hodeida, have since issued instructions to the Political Resident at Aden for the due observance of the principle set forth in the above case, viz. that subjects of Shehr and Makulla are entitled to British protection in the Ottoman Dominions, and that they should be granted passports when proceeding to places therein.

I beg to opine in conclusion that my interference under the circumstances, in the cases under report, was justifiable, and venture to suggest that the Porte be notified that the persons above mentioned are under British protection, and that it be caused to send the necessary instructions thereon to the Yemen authorities.

There are other cases of this nature now under dispute, which are being reported in separate despatches



despatches.

With the greatest respect,

I have &c.,

(Signed) G. A. Richardson,
His Majesty's Vice-Consul.



(109) (39)

CAMARAN,

November 28th, 1906.

No.101.

Sir:-

I have the honour to refer to Sir N. O'Conor's despatch of October 7th 1903 to Mr. Consul Devey, copy of which was transmitted to me, with reference to the application of one, Shaik Omar Besar, to be registered as a British protected subject at Hodeida.

The applicant in question appealed to the Political Resident at Aden in 1904, through the Sultan of Shehr and Mokalla, for a re-consideration of his case.

Some correspondence was interchanged in 1905, on the subject of Omar Besar's petition for registration at Hodeida as a protected subject, between the Government of India and the India Office, and also between the latter and the Foreign Office.

Ultimately, His Majesty's Under Secretary of State for Foreign Affairs in a despatch dated the 6th June,

His Excellency
George Head Barclay, C.M.G.,
Constantinople.



June, 1905 informed the Under Secretary of State for India, that Lord Lansdowne agreed with Mr. Secretary Brodrick that the man, Omar Basar was entitled to receive the passport to Hodeida which the Aden authorities were willing to grant him.

The Government of India were accordingly informed in a Political Despatch No. 57, dated the 30th June, 1905 from His Majesty's Secretary of State for India that there was no objection to issue the passport to Hodeida, sought by the Sheik in question.

This was, in due course, granted to the latter by the Political Resident at Aden.

A copy of the correspondence that had passed relative to this case, was sent to the Vice Consulate for my information.

Sheik Omar Basar and his family returned to Hodeida during my absence on leave, and were duly registered as protected subjects on application, by my locum tenens, after examination of their passports.

Last month, Omar Basar's son complained about

the



the arbitrary attitude of the port authorities in connection with a boat belonging to his father, and petitioned me for intervention on his behalf with the local authorities.

The Mutessarrif of Hodeida, as in the similar instances of Mahomed and Ahmed BaSaleh already reported to Your Excellency, has contested my interference on behalf of the man, contending that he is an Ottoman subject, and adding that if he has changed his nationality, orders from the Porte accepting the innovation, are necessary.

I am of opinion that reference in this case to the Vali will be quite useless.

It is respectfully suggested that His Majesty's Embassy represent the matter to the Porte and request it to instruct the Hodeida authorities to recognize Sheik Omar Besar and the members of his family as being under British protection, to which it has been proved they are justly entitled.

With truth and great respect,

I have &c.,

(Signed) G. A. Richardson,

His Majesty's Vice-Consul.





C A M A R A N.

November 28th, 1906.

No.102.

Sir:-

Great difficulty has been experienced of late with the authorities at Hodeida, in obtaining recognition as British subjects or as being under the protection of this Vice Consulate, of Arabs arriving from Aden in possession of passports issued by the Political Resident.

The latter are granted after careful examination and enquiry into the merits of each case, and the holders have invariably been persons legally entitled to protection.

Those affected are chiefly natives of Shehr and Makulla, states in political relation with the Aden Residency, and whose subjects, under treaty, enjoy His Majesty's protection.

Natives of Hydramaut, have for many years past, been engaged in trade at Hodeida. These merchants

generally

His Excellency
George Head Barclay, C.M.G.,
Constantinople.



generally reside here for a period of five years or so before returning to their country for one or two years and then they come back. Their business in their absence is carried on by relatives. As a general rule, a permanent domicile is not established at Hodeida, except perhaps as far as their trade is concerned. The families of these persons in most cases, reside in their native towns in Hydramaut.

Hitherto, the local authorities have treated these Hydrami merchants as Ottoman subjects, although they have not accepted naturalization formally nor adopted Ottoman nationality of their own free will; but having no consul to appeal to, they have had no alternative but to submit.

There have been a few instances during the past four years where some of these merchants have applied to me for assistance but I have had to inform them that there was no precedent for the interference of this Vice-Consulate. They were advised to refer to the Aden Residency that controls the political relations and affairs of native states in Arabia.

In



In 1905, I am given to understand, the Sultan of Shehr and Makulla represented to the Political Resident at Aden that his subjects trading at Hodeida were denied British protection, to which they were entitled, under the Treaty of 1888 with the Government of India.

This together with the application for a passport to Yemen of Sheik Omar Basar, led to correspondence between the Government of India and the India Office.

The Law Officers of the Crown, on reference being made to them, gave it as their opinion, that under the Ottoman Order in Council of 1899, protected subjects are entitled to the same measure of protection as that afforded to British subjects; further, that this right plainly asserted in the Ordinance referred to, has not been disputed by the Porte and should be adhered to.

This opinion was communicated by His Majesty's Principal Secretary of State for Foreign Affairs to the India Office.

Ever



Ever since the Government of India instructed the Aden Residency to observe the principle then laid down when it was decided to grant a passport to Shaik Omar Basar, the Political Resident has issued passports to natives of Shehr and Makulla proceeding to Yemen ports. Those of the latter formerly trading and resident at Hodeida have gone to Aden, sought passports and returned here.

On arrival or departure by sea, these merchants are subjected to difficulties on production of their passports visa-ed by this Vice Consulate.

During my absence at Sana'a, on one occasion the Hodeida officials refused to recognize the visa-ed passport of a native of Makulla and compelled him to take a Turkish teskhare before permitting him to sail for Aden.

Where British protected subjects, who are natives of Shehr or Makulla, seek consular interference on their behalf in law-suits in the local courts against Ottoman subjects, a delay in the disposal of the case for several months is caused by refusal of the

courts



courts in question to admit British Consular intervention, or that such persons are under the protection of the Vice Consulate. This often leads compulsorily to a private settlement out of court, to the detriment of the protected subject concerned.

In short, an unsatisfactory state of affairs results and exists in this way, at Hodeida.

Though it might appear undesirable to raise the general question at the Porte of the status of Hydramis in the Turkish Dominions, or to obtain its admission of the fact that they are under His Majesty's protection at Hodeida, I have to respectfully request, with great reluctance, in view of the difficulties enumerated above that are frequently being experienced at Hodeida, that a representation be made on the subject, at the proper quarter.

While being bound to admit the credentials of persons producing passports issued by the Political Resident at Aden, in the name of the Government of Bombay, I am, under present circumstances, owing to the natural obstructive attitude of the Hodeida authorities, unable to obtain recognition of the same

locally



locally and powerless to act or afford assistance where such is applied for.

With the greatest respect.

I have &c.,

(Signed) G. A. Richardson,
His Majesty's Vice Consul.

P.S.

Copies of Despatches Nos.100, 101, and 102 sent to Jeddah Consulate.

(Signed) G. A. Richardson.



Register No. 3290

Minute Paper. SECRET DEPARTMENT.

Letter from F.O.

Dated 20 July 1906.
Rec. 21 July 1906.

Formally acknowledged

	Date	Initials	SUBJECT
Under Secretary	23 July		Afghanistan
Secretary of State	23		Refusal of a passport to an Afghan proceeding to Mecca.
Committee	24/7		
Under Secretary			
Secretary of State			

Copy to India 3 August 1906

For information.

Secr. Pol. Comm'ee. 31 JUL 1906

Previous Papers :— 3253





3290

In any further communication on this subject, please quote
No. 24682
and address—
The Under-Secretary of State,
Foreign Office,
London.

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for India *and, by direction of the Secretary of State, transmits herewith copy of the under-mentioned paper.*

Foreign Office,
July 20, 1906.

Reference to previous letter:
India Office, July 19, 1906 (P —)

Description of Inclosure.

Name and Date.	Subject.
Telegram to Consul General Gurney, Marseilles, July 20, 1906	Passport for native of Afghanistan

[12]





Telegram to Cons.-Gen. Gurney (Marseilles), 20th July 1906.

Treaty. Your telegram of July 11. Omission of Goolag Shah to apply for passport in London not explained, and no precise information as to his status or history given. In these circumstances you should decline to ~~ahha~~ take any action.





We are still in some measure of disagreement with the Porte, & the Sultan has sent his agent to the Amir. To get from the Porte just now a decided refusal to recognise our intervention would be a mistake and not a desirable result of intervention.

Presumably this Gulab Shah has come from London. Why did he not apply here? Again does the Amir wish us to protect him? It would be awkward if he were



superintended by the Sovereign on
whose behalf we ask for attention.
Again is this a test case,
or is Gulab Shah acting under
instigation? These questions
may seem critical, but the
position is delicate. I would
tell the F.O. that as Gulab
Shah did not apply here
we know nothing about



(118) (98)

... Sovereign on
...rt for attention.
... test case,
... acting under
...ese questions
...l, but the
...te. I wanted
... at as Sulab
... apps here
...tty about

from the Cons. General had
letter say that he had not
sufficient information to
warrant him in acting.

G. Lot

17. VII. 06.





(119) (98)

Minute Paper.

Register No. 3253

SECRET DEPARTMENT

Letter from F.O.,

Dated 13th July 1906.
Rec.

Formally acknowledged

	Date	Initials	SUBJECT.
Under Secretary	13 Jy	RR	Afghanistan
Secretary of State			
Committee	16	AG	Application to H.M.'s Consul General at Marseilles of a Native of Afghanistan for a passport to enable him to proceed to Mecca.
Under Secretary	17	RR	
+ Secretary of State	18	AG	

Previous Papers:— Copy to India 20 July 1906 Secy 24

Sign as amended by Committee
JH 18/7/06

+ No. 91 to S. of S. with of attached sp.

The state of the case with regard to the protection of Afghans appears to be as follows:-

In 1890+ Lord Salisbury ~~purposes~~ instructed H.M.'s Representative at Constantinople that Afghan subjects in foreign countries "are to be treated as "British-protected persons, and, as such, "to be considered entitled to British pass-"ports + + but not to the enjoyment of "the advantages secured to the Queen's "subjects by the Capitulations with Turkey."

Th

TH
Ath ... 7/4/06

T 1881. 500—6/1904. I. 1136.

Instructions were accordingly issued to the Consuls (12 May '90) and the Turkish Govt. was ~~[illegible]~~ addressed on the subject; ~~and~~ in reply to asked for information as to the Treaty with the Amir upon which our claim was based. It further appeared that the Porte was making enquiries of other Great Powers as to how far our Protectorate over Afghanistan was recognised by them. Lord Salisbury, therefore, instructed Sir W. White that it was undesirable that the Porte shd. raise this question with the other Great Powers and that he should endeavour to find means to prevent this being done. Sir W. White, therefore, ceased to press for a settlement of the question: and ~~Sir W. White~~ he was finally instructed to address a Circular to Consular officers stating that "it is not desired to raise the question "of protection to Afghans unnecessarily, and directing "them, before acting on the instructions contained in "the Circular of the 12th May 1890 [which was based on Lord Salisbury's instructions above quoted] [illegible] refer to you any particular case that may arise". (No. 226 of 14 Oct '91).

When, in 1904, the Govt. of India raised the question of the status in Turkish territory of subjects of Indian Native States, they expressly reserved for future consideration the question of the status of Afghans in Turkish territory, as the advisability of obtaining a formal understanding with the Amir on the subject.

Dft. to F.O.

[illegible]

Sir W. White to F.O. No. 385, Aug 1890



(120)

19 July 1906

U. S. of S.
F. O.

Sir,

In reply to your Note of the 13th January relative to a request made by H.M.'s Consul General at Marseilles for instructions as to furnishing a native of Afghanistan with a passport to enable him to proceed to Mecca, I am directed by Mr. Secretary Morley to request that you will draw Sir E. Grey's attention to the correspondence upon this subject in the years 1890 and 1891. The

The position appears to be the same now in regard to this question

(with additions)

The Cm'ee would add "general"
[illegible]



as it was when Lord Salisbury's Despatch to Sir W. White, No. 26 of the 14th October 1891 was written. [and Mr. Morley thinks that it would be sufficient to commend the Afghan now in question to the good offices only of H.M.'s Consular [illegible] officers in Turkish territory.]

W. Lee

[illegible]

A. R. B.

The Comee would add here the following melting the last sentence in brackets — and in regard to this particular individual his mission to [illegible] for a passport in London is not explained, while no precise information as to his status [illegible] is given. In these circumstances, it seems to the S. of S. for India that H.M.s consul general at Marseilles might properly decline to take any action

(Sd) A. Godley

W. Lee



3253

P.P. M.S. 76/96.

Immediate

The Under Secretary of State for Foreign Affairs presents his compliments to the Under Secretary of State for India, and is directed by Secretary Sir E. Grey to transmit herewith a copy of a telegram from His Majesty's Consul-General at Marseilles requesting instructions as to furnishing a native of Afghanistan with a passport to

enable



enable him to proceed to Mecca.

Sir E. Grey would be glad to be favoured with Mr. Morley's observations as to the reply which should be returned to His Majesty's Consul General.

Foreign Office
July 13. 1906.



122

Telegram from Cons.Gen. Gurney (Marseilles).

D. 11
R. 12
July, 1906.

Can I deliver an ordinary passport to Goolab Shah merchant of 9 Chapel Street Bloomsbury London a native of Afghanistan proceeding to Mecca via Port Said.



enable him to proceed to Mecca.

Sir E. Grey would be glad to



Register No. 3021

Minute Paper.

Political Department.

Letter from F.O.

Dated 6 June 1905
Rec. 8

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	9 June	T.M.	Arabia.
Secretary of State			
Committee	9		Lord Lansdowne agrees with I. O that Omar Basar is entitled to receive a passport for Hodeida as a British protected subject.
Under Secretary	10		
Secretary of State			
Council Box	21		

COPY TO INDIA
190
SECRETARY'S No.

Paper on the COUNCIL TABLE

Dft despatch to India.

Previous Papers:—
2473





(126)

INDIA OFFICE
30 JUN 1905

Copy to F.O.
1.7.05.

Dft.
Despatch to India
No. 57 Political

Approved Pol: Committee
with alteration
20 June 1905

To F.O. 4/8 Mar 05
From F.O. 4/6 June 05

Appd Council
27 June 05

My Lord,

With reference to Y.E.'s telegram of the 26th January last, enquiring whether the Resident at Aden should be authorised to grant to Sheikh Omar Basar, a native of Shehr and Mokalla, a passport to Hodeida, I forward herewith for the information and guidance of Y.E.'s Govt a copy of correspondence with the F.O. on the subject.

2. The general question of the status of British-protected persons in Foreign Countries formed the subject of my Political Despatch No 55 of the 23 June 1905. It will be seen from

1605
I 1186



from the correspondence now forwarded that, in view of the opinion which has been recorded by the Law Officers of the Crown, Omar Basar is held to be entitled to receive the passport for which he has applied. I would, however, invite your special attention to the considerations set forth in paras 3–5 of the Foreign Office letter of the 6th June 1905, which should guide the British local officials in dealing with such applications for British protection; and I request that Y.E. will issue such instructions as you may think necessary for the due observance, in any case that may arise, of the principles laid down.

3. As regards the particular application

of



(125) (90)

of Omar Basar, there is no objection to the grant of a passport to him, unless it is considered expedient to withhold it, in view of the [~~[illegible]~~ difficulties indicated in the ~~concluding~~] paragraphs of the India Office letter of the 8th March 1905.

Pol. Committee [illegible] substitute "considerations set forth in the two concluding"

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

(58) St. John Brodrick.





3041

FOREIGN OFFICE,
June 6th, 1905.

Sir:-

The Marquess of Lansdowne has had under his consideration your letter of the 8th of March last, in which you request an expression of His Lordship's views as to whether the Resident at Aden should be authorized to grant to one Omar Basar, a native of Shehr and Mokallah, a British passport to Hodeidah.

2 The question of principle involved in your letter was dealt with in the Report from the Law Officers of the Crown, which was communicated to the India Office on the 22nd ultimo. In view of their opinion Lord Lansdowne agrees with Mr. Secretary Brodrick that the man Omar Basar is entitled to receive the passport which the Aden authorities are apparently willing to grant to him.

3 His Lordship considers that the question raised in the last paragraph of your letter is one which can be more

The Under Secretary of State,
India Office.





127

more readily answered by the British local officials than by this Department.

4. If a man who is entitled to British Protection refrains from applying for such protection for a long period, the delay may doubtless afford reasonable ground for refusing to extend it to him supposing always that the British local officials consider such a course to be desirable, but, if they are not of this opinion, the protection need not necessarily be withheld.

5. On the other hand such British protection should be limited to events occurring after the grant of the British passport and the grantee should not be allowed, by obtaining recognition as a British protected person, to escape the consequences of his actions while he was content to hold the position of an Ottoman subject.

The original enclosures which accompanied your letter are returned herewith.

I am,

Sir,

Your most obedient,

humble Servant,

E Grant

4





Register No. 300 (389)

Minute Paper. Political Department.

2 Telegrams from Viceroy, Dated 26 Jan. 1905. Rec. 2 Feb.

Formally acknowledged

	Date.	Initials.
Under Secretary	2 Feb	
Secretary of State	2	
Committee	4	
Under Secretary	27	
Secretary of State	28	
Council Box	28	

SUBJECT.

Arabia.

Proposed grant of a passport by the Resident at Aden to Omar Basar, whose domicile at Hodeidah dates from after assumption of British Protectorate over Mokalla.

Previous Papers:— 2852/03

Papers in the COUNCIL TABLE 8

This question was fully discussed in 1903 – and it was then ruled that "if it seemed [to F.O.] undesirable on political grounds to admit Omar Basar's registration as a British protected subject, it might be refused on the ground that he has settled at Hodeida some five years before the Sheher & Mokalla tribes came under British protection. The Resident

Copy to India 10 March 1905 Secy 10 No. 57 Pol./05.



at Aden he was satisfied himself that Omar Basar's domicile at Mokalla dates from after the British Protectorate. The question, however, appears to be not as to the date of his domicile at Makalla, but of his domicile at Hodeida. Presumably, the latter must be meant.

P.S. The Govt. of India has now stated that they meant that Omar Basar's residence at Hodeida dates from after the assumption of the British Protectorate over Mokalla.

Oph. to the F.O.



(129)

Not accepted by Pol Cmttee.

U. S. of S.
F. O.

Cf. 21 Jan.

Sir:

With reference to Sir H. Walpole's letter of the 24th August 1903 on the subject of the claim of certain natives of Shehr & Mokalla to registration as British-protected persons at Hodeida, I am directed by the Secretary Brodrick to enclose, for Lord Lansdowne's information, a copy of a telegram from the Govt. of India enquiring whether there is any objection to the Resident



Resident at Aden granting to Omar Bassar, one of the natives of Shehr & Mokalla above referred to, a passport to Hodeida.

Subject to Lord Lansdowne's concurrence, Mr Brodrick proposes to inform the Govt. of India that in the circumstances stated, there is no objection to the proposal of the Resident at Aden.



(130)

Approximately

Copy
1st para of Deptl Draft
[illegible]
I am also to enclose
copy of papers rec'd
from the Govt of India
on the subject

I wd send besides the
tel. from the batch of
papers subsequently
rec'd & wd substitute
for the last para. of the
Draft the follg:

"From the papers now
sent it seems clear to
Mr B. that Omar
Basr is a person
who is primâ facie
entitled to British
protection; but I am
to observe that our officers
by attempting to extend
such protection to him
might raise at Hodeida
the question which has
just been referred to
the Law Officers as
to our right in places
like the Ottoman
dominions to extend
British protection to
the subjects of States
over which we exer-
cise a protectorate.
& I am to add that

General



if that question were raised in this particular case the prospect of our getting the Turkish authorities to admit our claims would be ~~[illegible]~~ diminished by the circumstances that Ooman Basr is a subject of one of the [nine ~~[illegible]~~ Cantons] & is moreover at this moment on bad terms with the Turkish local officials.

Hadramaut State?

It may be that the facts that Ooman Basr has for his own purposes abstained for so many years from seeking the protection of the British Consulate at Hodeida & allowed himself to be regarded as an Ottoman subject & that the ~~[illegible]~~ applies



(131)

for British protection as now when he has fallen out with the Turkish officials w'd be considered to disentitle him to British protection or at least to justify some delay on our part in acceding to his application for it, but this is a point for the consideration of the F.O."

D.F.

21.2.05





I have read Sir D. Fitzpatrick's minute & I recognise the difficulty which he points out arising from the general question of British protected subjects having been referred to the Law Officers. But I do not see how we can well refuse to answer the Govt. of India's question.

I sh^d see no objection to inserting [after 70] in the draft a para: saying that the question is for this reason an inconvenient one at the present moment & that the applicant having abstained at [illegible]





(133)

from from registering himself
must not expect us to give
him our protection now. It will
be there a question for L^d F.O.
to decide

[illegible] 12/3





3004389

(134)

1. I do not understand the letter of this dept. of 24th Augt. last –
I have not referred to the papers relating to the subjects of the King of Portugal in Siam, but I don't well see how the case of those persons cd afford any analogy to guide us in the matter now before us – neither can I conceive any ground on which the case of a Sheheri ~~subject~~ subject who had become resident in, or domiciled in a foreign Country before our protectorate was established over Sheher & Mokulla, cd be distinguished from that of a Sheheri subject who had become resident or domiciled in that Country after – It is however unnecessary to discuss this now as it appears that Sheikh Omar Basaar did not become resident at Hodeida until after our protectorate ~~of~~ over Sheher & Mokulla was established
2 – I agree with Sir S. Bayley



that ~~the Sheikh has [illegible]~~
a man in the Sheikh's position
has prima facie a claim to
protection from us – There is of
course nothing like a legal
right to protection, ~~but~~ and
we have on the advice of the
Law Officers on several
occasions refused protection
even to British Subjects;
but I cannot recall any
case in which we have refused
it to a man who was clearly
a British Subject or even
the Subject of a protected
State unless he had done
something which might reasonably
be regarded as disentitling
~~him~~ him to it –
Whether ~~the fact~~ the fact that the Sheikh
has, ~~had all these years~~
~~at Hodeida~~ during all the
years he has been settled
at Hodeida, gone on, for
his own purposes, allowing
himself to be regarded
as an Ottoman Subject



(135)

by the local authorities & only
claims our protection now that
he has fallen out with them
should or [illegible] not be deemed
to disentitle him to our
protection, it is for the F.O. to
say, but I cannot see any other
ground for refusing it to him
3 - I am entirely with Sir W. Lee Warner
as to the undesirability of irritating
Turkey, Persia & other like states
in the way we have been doing
of late, but I don't think we
c[oul]d, merely for the sake of avoiding
irritation, refuse protection
to the Sheikh if he is fairly
entitled to it as a subject
of Shehr & Mokulla -
4 - I don't understand what
Sir W. Lee Warner means by
saying that it may be that
the Sheikh is "a domiciled
British subject at Aden"
& that we might give him
a passport as a naturalized
British subject"; but it is
enough to say that the man
now states that he was



born at Shehr & that there is
no suggestion that he was born
anything but a Shehri pure
& simple — neither can I
find it anywhere stated
that he was ever naturalized
at Aden, &, even if he was,
that, according to the latest
opinions of the law Officers
of which I am aware, wd
not entitled him to our
protection in a foreign country
but only to our good offices.
And to put our claim to
intervene on his behalf
on this lower ground wd
look very like a waiver
of the higher ground —
Hence if we are to intervene
on his behalf at all it must
be on the ground that he
is a subject of Shehr &
Mokalla a State under
our protection —
5.- I am afraid, however, that
to grant him protection at
this moment on that ground



(136)

might have very awkward consequences, inasmuch as it might raise between us & Turkey the general question which we have just been considering & referred to the Law Officers, & that under conditions very unfavorable to us; first because the Sheikh is a subject of one of the nine Cantons as to the status of which Turkey is now feeling sore, & secondly because the Sheikh has fallen out with the powers that be at Hodeida –

What I wd accordingly suggest is that, unless the F.O. prefer to refuse the Sheikh's request on the ground that he has not applied for protection all these years, the matter shd be allowed to stand over for the present – If the Sheikh suffers from this he will have to thank himself —

D.J.? 14.2.05

I think he is a subject [illegible] of the Cantons [illegible]. A man can only be the subject of a state. Is the Hadramaut a state?



350

137

INDIA OFFICE
WHITEHALL S.W.

I think the man is clearly entitled to be registered as a British protected subject. I admitted this in principle, but on Sir W. Lee Warner's argument that by analogy with Burmese subjects in Siam we might avoid registration on the ground of his having settled in Hodeida before the Sheher Treaty was executed, this course was suggested to the F.O. We heard no more. Now we are asked





to grant him a passport on the ground that the ~~facts~~ [appearing] case of his settling [at Mukalla] before the treaty is not in accordance with the fact. I can not see how we can refuse it, nor do I think we are justified in falling back upon the ground of his father having been naturalised at Aden – as a shelter from the wrath of Turkey –

S.W.B.

See proposed addition to the draft in pencil –

I agree H.





300 (139)

We have not yet got to the bottom of the question of status. We know that the Turks will be "strongly disinclined" to recognise our right to protect Sheikh Omar Basan & his brothers in Turkish territory. Our consul at Jedda goes even further. The only report we had about the applicants were based on reports of Mr Richardson who wrote: "I have now been informed that as Sheikh Omar Basan is a subject of



Makalla, a British protected state, he is entitled to British protection?

We have [raised the question,] ~~asked~~ in view of his alleged 20 years residence in the Turkish place Hodeida whether he had not left Hodeida some years before the protectorate was declared. Our letter to the F.O. went to India on Sept 14, & the Indian Govt replied on Feb 26 that Resident was now satisfied that applicant's domicile at Hodeida was not *bona fide* but after our



protected state,
British protection?
view of his
residence in the
whether he
in some years
was declared.
went to India
Indian Govt
that Resident
applicants
was not
after our

(140)

protectorate was established. Papers are promised by mail due next week. Instead of waiting for these papers it is proposed to address the F.O. I think we should await them, and then if it appears, as seems likely to be the case, that the Sheikh is really a domiciled [naturalised] British subject at Aden, I would give him a passport as a naturalised British subject (which we often give quantum valeat), and not raise the status question in this case.

W. Lee-Warner
7.2





(141)

2d. [illegible] between the [illegible] + [illegible]

It seems clear to [illegible] that the ground on which, as [illegible] Walpole's letter of 24 Aug/03 Ld. Geo. Hamilton advised that registration ought to be refused to this person, was based on a misapprehension. That letter admitted that as a subject of the Sheikh of [illegible] Sheikh [illegible] Omar Bacar would [illegible] have a right to be





registered as a British protected subject, but it was suggested on the analogy of Burmese subjects in Siam that his having ceased [illegible] the Koweit person, & the date of the protectorate treaty might afford a reason for abstaining from registration.

It now appears that as a matter of fact he left [illegible] the Koweit after & not before the date of the treaty & in these circumstances Mr Brodrick proposes subject to Ld L.'s concurrence [illegible]





(143)

Draft to Foreign Office proposed by Pol. Comee.

Draft

The U. S. of State, Foreign Office

8 Mch/05.

Sir,

With reference to Sir H. Walpole's letter of the 24th August 1903 on the subject of the claim of certain natives of Shehr and Mokalla to be registered as British protected persons at Hodeida, I am directed by Mr Secretary Brodrick to enclose, for Lord Lansdowne's information, a copy of a telegram from the Govt. of India enquiring whether there is any objection to the Resident at Aden granting to Omar Basar, one

of

Appd Pol. Comee, 27 FEB. 1905

Appd Council 7 March 05

d/26 January

16039



of the natives of Shehr and Mokalla above referred to, a passport to Hodeida.

I am also to enclose copy of papers received from the Govt. of India on the subject.

Enclosure in Foreign Secy's letter of 26 Jan 1903 (original return requested)

From the papers now sent it seems clear to Mr Brodrick that Omar Basar is a person who is *prima facie* entitled to British protection; but I am to observe that our officers by attempting to extend such protection to him might raise at Hodeida the general question which has just been referred to the Law Officers of the Crown as to our right in places like the Ottoman

Dominions



Dominions to extend British
protection to the subjects
of states over which we
exercise a protectorate,
and I am to add that
if that question were raised
in this particular case, the
prospect of our getting the
Turkish authorities to
admit our claims would
be diminished by the circumstance
that Omar Basar is a
subject of one of the
Hadramaut States, and
is, moreover, at this moment
on bad terms with the
Turkish local officials.

It may be that the
facts that Omar Basar

has



has, for his own purposes, abstained for so many years from seeking the protection of the British Consulate at Hodeida and allowed himself to be regarded as an Ottoman subject and that he applies for British protection only now when he has fallen out with the Turkish officials, ~~would~~ should be considered to disentitle him to British protection or, at least, to justify some delay on our part in acceding to his application for it, but ~~this~~ that is a point for the consideration of the Foreign Office.

(Sd.) A. Godley

1/3

H. W.

4 Oct

A.R.B.



300

P. 355/05

(145)

Departments are requested, if they suspect that there is any mistake in this telegram, to communicate immediately with the Private Secretary to the Parliamentary Under Secretary of State.

COPY OF TELEGRAM

FROM

Viceroy

DATED 26 January 1905

RECEIVED AT LONDON OFFICE 1.15 P.M.

Foreign. India office letter to Foreign Office of 24 August 1903. Resident at Aden proposes to grant application received from Omar Basar for passport to Hodeida as he is now satisfied that applicant's domicile at ~~Mokalla~~ ×Hodeidah dates from after assumption of British protectorate ×over Mokalla. Is there any objection?

× Corrections made in Viceroy's telegram of 2nd Feb. - below





300

(146)

Departments are requested, if they suspect that there is any mistake in this telegram, to communicate *immediately* *with the Private Secretary to the Parliamentary Under Secretary of State.*

COPY OF TELEGRAM

FROM

Viceroy

DATED 2 Feb. 1905

RECEIVED AT LONDON OFFICE 1.49 P.M.

Foreign. Your telegram dated 27th January. In our telegram dated 26th January for "at Mokalla dates from after assumption of British Protectorate" substitute "at Hodeida dates from after assumption of British Protectorate over Mokalla." Papers posted 26th January last.





147

DRAFT TELEGRAM.

Despatched 27th Jany 1905.

SECRETARY OF STATE

TO

VICEROY, FOREIGN DEPARTMENT.

(Vafrorum)

Causare Insasurrot

Yours 26th January not quite understood. Question is whether Omer Basar domiciled Hodeida before 1 May 1888.

Ennoea ordiri

Under Sec of State

I submit a telegram of inquiry

27/Jan 05

Send

27 Jan 05

Copy to India, 31 January

Copy to Council Clerk, 30 January





(Copy) No. 7886.

Political Department,

Bombay Castle 20th October 1904.

From

C.H.A. Hill, Esquire, C.I.E.,

Acting Secretary to the Government of Bombay,

To

The Secretary to the Government of India,
Foreign Department.

Sir,

I am directed to refer to the memorandum from the Government of India, Foreign Department, No. 2514 E.A., of the 22nd October 1903, forwarding copy of a correspondence relative to the claim of one Sheikh Omar Bassar, a resident of Hodeida but a native of Mokalla, to be registered as a British protected person.

2. I am now to forward herewith, for the consideration of the Government of India, copy of a letter No. 360 of the 11th November 1904 from the Political Resident, Aden, and of its accompaniments, in connection with an application for a passport from the same individual.

3. The applicant, I am to observe, was refused British protection in 1903 on the ground that he had permanently settled in Hodeida twenty years ago, i.e. five years before the conclusion of the Protectorate Treaty with His Highness

the





(149) (46)

the Sultan of Shehr and Mokalla. It is now reported, however with the authority of the Vice-Consul in support of the statement, that he started trading with Aden and Hodeida twenty-one years ago but did not become a permanent resident of the latter place till about thirteen years ago, i.e., about two years after Shehr and Mokalla came under British protection.

4. I am to observe that if the case had been submitted now for the first time the Resident would, in the ordinary course, have granted the Passport applied for. Having regard however, to the fact that the Secretary of State deferred, in 1903, to the political considerations which were urged against according Sheikh Omar the recognition which he then asked, the Governor-in- Council deems it necessary to refer the question for orders. His Excellency is of opinion that the application for a passport is deserving of favourable consideration, and that unless, on a reference to the Secretary of State, it is ascertained that there are very strong political reasons against according him the privilege to which he can be held to be entitled, Sheikh Omar should be granted the passport he applies for.

I have the honour to be,

Sir,

Your most obedient servant,
(Sd.) C.H.A.Hill,
Acting Secretary to Government



Copy



(Copy)

No. 360 of 1904.

Aden Residency

The 11th November 1904.

From

Major General H.M. Mason,

Political Resident, Aden;

To

The Secretary to the Government,

Political Department, Bombay.

Sir,

I have the honour to invite your attention to the correspondence forwarded under your endorsement No. 7451, dated the 6th November 1903, on the subject of an application made to the British Vice-Consulate at Hodeida in May 1903 by Sheikh Omar Bassar, a native of Shehr and Mokalla, but permanently resident at Hodeida, praying that he and other members of his family may be accorded British protection.

2. The case of the applicant was at the time fully described by Mr. Richardson, Vice-Consul at Hodeida, who finding that Omar Bassar had been regarded for a long time as an Ottoman subject by the local authorities at Hodeida, thought it best to take orders in the matter from higher authorities. Accordingly the question was referred to the

Home





Home Government through the British Embassy at Constantinople.

3. The result was a reply from the India Office in August 1903 to the effect that such persons had prima facie the same right to be registered as British protected persons at Hodeida as at Zanzibar, but that in this particular instance it did not appear that registration could be demanded as a right, Omar Basaar having been reported to have settled at Hodeida some five years before the Shehr and Mokalla tribes came under British protection, and that therefore on the analogy of the somewhat similar case of the Burmese who had settled in Siam before the annexation of Upper Burma, registration as a British subject might be refused if it was deemed undesirable, on political grounds, to admit the claimant to such registration.

4. It will be seen that the weak point of Omar Basaar's case was the fact of his having settled in Hodeida before the conclusion of the Protectorate treaty with the Sultan of Shehr and Mokalla.

5. Not having met with success in Hodeida, Omar Basaar applied to this Residency in July last for a passport. It will be noted that this was a course proposed by the Consul at Jeddah who it appears from the papers had suggested as a practical solution of the difficulty that Omar should be advised to come to Aden, establish a real domicile

and





(152)

and obtain British papers here if that could be suitably carried out.

6. In the course of his affidavit in support of his application Omar Basaar declared that he had been a resident of Hodeida for the past thirteen years. It was then pointed out to him that from the correspondence alluded to above it appears that he had settled in that place twenty years ago, and he was asked to explain the discrepancy. He was also asked to produce a letter from the Sultan of Shehr and Mokalla recognizing him to be still a subject of that State.

7. The letter from the Sultan to the desired effect was received in due course and a translation of the same is attached hereto. But in reference to the discrepancy mentioned above the explanation offered by Omar Basaar was that though he had gone to Hodeida about twenty years ago, for purposes of trade, it is only about thirteen years since he settled there, the previous seven years being spent in travelling between Aden, Shehr and Hodeida.

8. I was, however, unwilling to accept, without further enquiry, this statement which seemed to me to have been made evidently with a view to evade the objection urged against his registration as a British subject at Hodeida. A reference was therefore made to the Vice-Consul at

Hodeida





(153)

Hodeida enquiring whether the version now given by Omar Bazaar could be accepted. Copies of the correspondence on the point are herein enclosed and it will be observed that the Vice Consul bears the applicant out in his present statement.

9. In view of this new feature of the case it seems to me that there could be no objection to my granting the passport applied for. But as the earlier papers show that there are certain political considerations involved, to which due weight must be attached, I have deemed it desirable to refer the matter for the orders of Government.

I have the honour to be,

Sir,

Your most obedient servant,

(Sd.) H.M. Mason,
Major General,

Political Resident, Aden.





(154)

Copy

Aden, 22nd July 1904.

To

The Court of the Resident,
A d e n .

Sir,

I beg to request that the Court will be pleased to grant me a passport to enable me to proceed to Hodeida to recover the debts due to me there. I am the subject of His Highness the Sultan of Shehr and Mokalla, a Chief in alliance with His Majesty's Government.

I have an extended trade in Aden, Shehr and Mokalla with my other partners and own landed property too.

The usual fee will be gladly paid.

I beg, etc.,

(Signed in Arabic) Omar Abdalla Bassar.

30th July 1904.

Omar bin Abdalla Bassar, the applicant is present and states on oath.

I have been a resident of Hodeida for the last 13 years; but I have been coming to Aden occasionally for a month or two. I am a trader at Hodeida. I have never been to Shehr or to Mokalla or to any village or town under the Sultan of Mokalla for the past 13 years. Some

of





of my children are at Shehr. I came from Hodeida to Aden about 25 days ago, and I want to go back to Hodeida about 10 or 15 days hence.

(Signed in Arabic) Omar Abdalla Bazaar

Before me

(Signed) K.N. Koyajee,
Registrar.

Copy

Aden 9th August 1904.

To

The First Assistant Resident,
Aden.

Sir,

I beg most humbly to inform you that in July last as a British protected subject I applied to the Court for a passport to recover my dues at Hodeida, and paid the usual fee for it, but the Registrar subsequently informed me that there was no necessity for the grant of such a passport.

2. I beg to state that I was born at Shehr and have an extensive trade at that place, as well as in Aden and Hodeida. I owe allegiance to His Majesty's Government as our Ruling Chief His Highness the Sultan of Shehr and Mokalla, has been accorded His Gracious Majesty's favour and protection. Hence being a British protected

subject





(156)

subject I am entitled to British protection all over the places wherever His Majesty has His Consular Court.

3. I beg further to represent that in the year 1903 I raised before His Britannic Majesty's Consul at Hodeida a question of my being a British protected subject and asked from him for a certificate to that effect, but that officer after having had communication with the Political Resident at Aden informed me that I would get such a certificate from the Residency office at Aden as I am a British protected subject.

4. My object in asking for such a passport which, as a British protected subject I am entitled to, is to have the support and protection of His Majesty's Court in recovering my dues. Several persons who are residents of Shehr and Mokalla have received such passports from the Aden Residency, and I cannot say what legal difficulty the Registrar has found in my case that he at first issued a passport after being satisfied that I was born at Shehr and then subjecting me to rigid examination, refused the grant of it.

5. I beg also to inform you that in Turkish territory the subjects of the Ruling Chiefs under British protection are treated as British protected subjects and have the support of His Majesty's Consul in Civil and other

matters





157

matters. Because such subjects owe allegiance to British Crown and to no other States.

I pray that the necessary passports may kindly be granted.

I beg, etc.,

(Signed in Arabic) Omar Abdalla Bazaar.

No. 2802 of 1904.

Residency Office

Aden, 10th August 1904.

To

The Registrar,

Court of the Resident, Aden.

Please send to this office correspondence on the subject of an application made by Omar Bazaar for a passport to Hodeida.

(Signed) J.Davies Lt: Colonel

First Asstt: Resident, Aden.

There has been no correspondence on the subject, but the application, depositions &c are forwarded herewith with compliments.

(Signed) K.E. Koyajee.

12-8-04. Registrar.

Copy.





158

No. 2903 of 1904.

Residency Office

The 17th August 1904.

To

Omar bin Abdalla Bazaar.

Memo.

With reference to his application dated the 9th August 1904, for a passport, Omar bin Abdalla Bazaar is requested to explain how it was that when applying to the Court of the Resident for a passport he stated that he had been a resident of Hodeida for 13 years whereas it appears to be the fact that he settled in that place 20 years ago. He is also requested to produce a letter from the Sultan of Mokalla stating that he is a subject of his.

(Signed) J. Davies, Lt: Colonel,
First Assistant Resident, Aden.

Aden August 1904.

To

The First Assistant Resident, Aden.

Sir,

In reply to your letter No. 2903 dated 17th August 1904, I beg to explain that the Registrar of the Court asked me to state the actual time that I stayed in Hodeida, and ~~xx~~ so I told him 13 years, while 7 years

before





(159) (80)

before that I was travelling between Hodeida, Shehr and Aden.

2. If there be any doubt about my place of birth or of my not being the subject of the Sultan of Mokalla, I beg of you to kindly enquire from the Sultan of Mokalla this fact and the matter will be easily known.

3. I beg to inform you that when at Hodeida I was informed by His Majesty's Consul that all the subjects of the Sultan of Mokalla trading at Zanzibar are given British protection. I therefore pray that the same concession may be given to me as I am the subject of the Sultan of Mokalla and owe allegiance to the British Crown.

I beg, &c.,

(Signed) Omar Abdalla Basuar.

(Copy)

No. 3089 of 1904.
Aden Residency
The 31st August 1904.

From

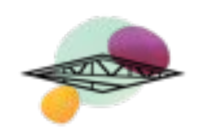
Lieut: Colonel J. Davies,
First Assistant Resident, Aden;

To

H.B.M's Vice-Consul,
Hodeida.

Sir,

With





160

With reference to the correspondence ending with this Residency letter No. 1494, dated the 22nd April 1903, I have the honour to forward herewith copy of a memorandum to Omar bin Abdulla Basaar No. 2903 dated the 17th August 1903, and of the reply thereto and to enquire whether the version now given as to the time when Omar Basaar settled in Hodeida can be accepted.

I have, etc.,

(Signed) J. Davies Lt: Colonel

First Assistant Resident, Aden.

Translation of a letter.

From Sultan Ghalib bin Awadth bin Omar Janbagjung. the Governor of Mokalla, to General Mason, Political Resident, Aden.

After compliments.

In respect to the Al Ba Sa'ar 'Umar ba 'Abud who reside at Hodeida, he is our subject, and he requested us to write you about the same. We wish to let you know that the abovementioned gentleman and the whole family of Ba Sa'ar are our subjects. May you be preserved for ever.

Dated 25th Rajab = 14th (Sic)(5th) October 1904.

No.





No. 3640 of 1904

Aden Residency
The 12th October 1904.

From

The First Assistant Resident, Aden,

To

H.B.M's Vice-Consul, Hodeida.

Sir,

I have the honour to ask when a reply to the communication noted in the margin may be expected.

3089 dated 31st August 1904 enquiring whether the version given as to the time when Omar Bassar settled in Hodeida can be accepted.

I have, etc.,

(Signed) J. Davies, Lt: Colonel,
First Assistant Resident, Aden.

British Vice Consulate,
Hodeidah,
October 26th 1904.

No. 83.

Sir,

With reference to the correspondence regarding the residence at Hodeida of Omar bin Abdalla Bassar, forwarded with your despatch No. 3089 of the 31st August I have the honour to inform you that enquiries have been made by His Majesty's Vice-Consulate on the subject from

the





the prominent Arab Merchants of this town.

It would appear from the information tendered by the latter, many of whom are natives of Shehr and Mokalla that the statement of the petitioner Omar Ba Saar is correct.

While coming to Hodeida some twenty years ago for the purposes of trade, the above man has apparently spent the first seven or eight years in travelling between Aden, Shehr, and this port and that during the past 12 or 13 years he has been actually resident more or less at Hodeida.

Lt: Col: J. Davies.
First Assistant Resident, Aden.

Your letter of the 12th instant on the above subject has since been received.

I am, etc.,

(Signed) G.A. Richardson,
His Majesty's Vice-Consul.





Register No. 2412

Minute Paper. SECRET DEPARTMENT.

Letter from F.O.

Dated 14 / Rec. 15 March 1904.

Formally acknowledged

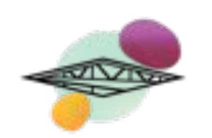
	Date.	Initials.	SUBJECT.
Under Secretary	15 March		Turkey
Secretary of State	16		Afghans in Turkey. Question of viseing their [illegible] [illegible] passes. [illegible] F.O. approval conveyed to the H.O. Consr.
Committee	16		
Under Secretary			
Secretary of State			

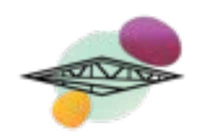
Previous Papers:— 2803

Copy to India
For information

Seen Political Committee. 22 March 1904

COPY TO INDIA 25 March 1904





21,12

P.P. 35030

(164)

Foreign Office,

March 14th., 1904

RECEIVED 15 MAR 1904 POLITICAL OFFICE

To Sir N. O'Conor No. 97. March 10 th

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before the Secretary of State for India, the accompanying copy of a despatch, as noted in the margin, relating to the practice of placing a visa on the "passe-avant" of Afghan subjects who present themselves at the British Consulate at Constantinople.

I am,

Sir,

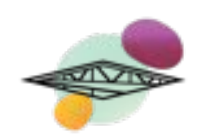
Your most obedient,

humble Servant,

T.H. Sanderson

The Under-Secretary of State,

India Office.





(165)

Copy.

FOREIGN OFFICE,
March 10th, 1904.

No. 97.

Sir:-

I have considered, in consultation with the Secretary of State for India, your despatch No. 6 Treaty of the 9th ultimo, relative to the practice of placing a visa upon the "feuilles-de-route" or "passes-avant" of Afghan subjects who present themselves at the British Consulate at Constantinople for that purpose; or of issuing, if occasion warrants, similar provisional documents.

Subject to the safeguards indicated in your despatch I see no objection to the maintenance of the practice in question.

I am, with great truth and respect,

Sir,

Your Excellency's most obedient,

Humble Servant,

His Excellency
The Right Honourable,
Sir N. O'Conor, G.C.B., G.C.M.G.,
&c., &c., &c.





Minute Paper.

Register No. 2303

SECRET DEPARTMENT.

Letter from F.O.

Dated 19 Feby. 1904.
Rec. 22

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	25 Feb	KR	Turkey.
Secretary of State	26	ag	Afghans in Turkey. Question of visa-ing the feuilles de route or passe-avant for Afghans who present themselves at the British Consulate at Constantinople
Committee	26	S of B	
Under Secretary	1 March	KR	
Secretary of State			

Previous Papers:— 1576/96

Sign
ag
1 March 04

In 1898 Turkey declined to recognise Afghans as being entitled to British protection – and, as she proposes to invite the opinion of the other Powers on the question, it was considered expedient to let the discussion drop.

There seems, however, to be no objection to the course proposed by Sir N. O'Conor.

Dft to the F.O.

COPY TO INDIA 4 March 1904
SECRETARY'S No. 10



2 Mch/04

The U. S. of S.
F. O.

Sir,

I am directed by the Secretary Brodrick to acknowledge receipt of your letter of the 19th February relative to the practice of placing a visa upon the feuilles-de-route or passe-ports of Afghan subjects who present themselves at the British Consulate at Constantinople for that purpose; or of issuing, if occasion warrants, similar provisional documents.

Subject to the safeguards indicated by Sir N. O'Conor, Mr. Brodrick sees no objection to the maintenance of the practice in question.

(Sd) A. Godley

Book /64

Copy to Pol. Cmtee, 1 Mch/04



2303

(167)

FOREIGN OFFICE,
February 19th, 1904.

Sir:-

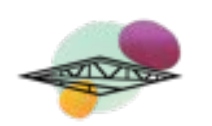
With reference to my letter of the 21st ultimo I am directed by the Marquess of Lansdowne to transmit to you herewith copy of a despatch from His Majesty's Ambassador at Constantinople relative to the practice of placing a visa upon the feuilles-de-route or passe-avant of Afghan subjects who present themselves at the British Consulate at Constantinople for that purpose, or of issuing, if occasion warrants, similar provisional documents.

Sir N. O'Conor No 6 Treaty February 9th 1904

Lord Lansdowne proposes, if the Secretary of State for India concurs, to approve Sir N. O'Conor's action in maintaining the practice in question.

I am,
Sir,
Your most obedient,
humble Servant,
T.H. Sanderson

The Under Secretary of State,
India Office.





Copy.

CONSTANTINOPLE.
9th. February 1904.

No. 6.
Treaty.

My Lord:-

With reference to my despatch No. 21 Political of the 2nd. instant respecting the case of a certain Afghan Sirdar Mohammed Azim Khan, I have the honour to report that it is the practice of the Consulate here, with the concurrence of the Embassy, to visa the feuilles-de-route or passe-avant for Afghan subjects who present themselves at the Consulate for that purpose, or to issue, if occasion warrants, similar provisional documents.

Care is of course taken that nothing is written on the document to indicate that the bearer is a British Subject or Protected Person, or entitled to anything more than the good offices of British Consular Officials, but as the Ottoman Government insist on foreign travellers producing visaed papers of some sort,

and

The Marquess of Lansdowne, K.G.,
&c., &c., &c.





169

as there is no other authority naturally constituted to fulfil these formalities on behalf of the subjects of the Amir, I consider it expedient, unless Your Lordship sees objection, to maintain the practice in question.

Should we refrain from doing so Afghans would probably have recourse to the Russian Embassy.

I have, &c.,

(Signed) N. R. O'Conor.



O.C. No 6
Treaty.

(Special Cover



Register No. 6624

Minute Paper. Political Department.

Letter from Govt of India No. 65 Dated 17 March 1904. Rec. 5 April

Formally acknowledged

	Date.	Initials.	SUBJECT.
Under Secretary	18 May	RR	The status enjoyed in Turkish territory by the subjects of Native States in India
Secretary of State	18	AG	
Committee	19	SOO	
Under Secretary	28 Jan	RR	
Secretary of State	29	A.G.	
Council Bax	30	SOO	

Previous Papers :—
In Proc Oct/94

Paper on the COUNCIL TABLE 10

The observations of the Legal Adviser are annexed.

The argument of the Govt. of India appears to be sound. Art. XV of the Foreign Jurisdiction Act (1890) provides that provisions of Orders in Council which relate to persons enjoying H.M.'s protection "shall include subjects of the several princes and States in India".

The

Copy to India. 8 July 1904 Secy 28

Despatch to India 23 June 1905 No. 55 (2993/05)

/ / TH



The Ottoman O. in C. 1899 defines a "British subject" as including "a British "protected person, that is to say, a person who "either (a) is a native of any protectorate of H.M. "and is for the time being in Ottoman Dominions; "or (b) by virtue of Sec. XV of the "The Foreign "Jurisdiction Act 1890" or otherwise enjoys "H.M.'s protection in the Ottoman dominions."

It seems to follow that so far as the question of British law is concerned, subjects of Native States (in Ottoman Dominions) are entitled to the same treatment as British subjects proper —

But the question arises whether the Turkish Govt. will agree to recognise, say, a Native of Kashmir as entitled to the privileges of a British subject. It is known that they objected to recognise our right to represent Afghans: but that was a different case. The F.O. circular of 1893 arose out of a question as to the position of natives of North Borneo — and the O. in C. of 1899 seems to have modified the situation.

Dft. to the F.O.



(171)

Reference Paper.

Political and Secret Department.

Letter No. 664/04 Rec. 5 April 1904.

Referred to the Legal Adviser 6 day of Aug 1904.

For observation.

[signature]

I append some observations.

[signature]

13th May 1904





India Office

It must I think be admitted that there are good reasons why subjects of native states shall when found in foreign countries enjoy the same measure of protection as is accorded to British subjects. The matter is discussed in Hall's Treatise on Foreign Jurisdiction §100 and the view taken by him is similar to that urged by the Government of India. Nor do I see any objection to the proposal which is made as well with reference to subjects of native states within India as to subjects of their protectorates, provided that it is clearly understood that it is only in foreign countries that they are deemed to be British subjects.

It is another question whether foreign governments are bound to treat as British

3



British subjects [persons] who do not really come within that jurisdiction. That must I think depend on the terms of the treaty or other understanding between the British Government and the governments concerned. I can hardly think that the expression "Subject of England" was when originally used in the Capitulations intended to include subjects of protected states, but I presume that the expression has since been understood to have that extended meaning or that otherwise the Ottoman Government has consented to extend to such persons privileges originally conceded to British subjects only. I presume that this must be so, for otherwise



(173)

the term 'British subject' used in
the Order in Council of 1899 could not
well have had assigned to it the meaning given
in clause 2. I suggest that it should
be ascertained how it came to have
that meaning assigned to it.
I would also suggest that it may
be desirable to ascertain in what
respects subjects of native states
are at a disadvantage as compared
with natives of British India,
whether they are at a disadvantage
in matters other than those to
which the Order in Council
relates and whether the certificates
given under that Order are
ever questioned by the Ottoman
authorities. It would rather
seem that the difficulty arises

4



from the neglect on the part of subjects of native states to obtain certificates of registration.

W H Shepherd

12th May 1904.



Book 197

Draft Letter to Foreign Office proposed by Political Committee.

India Office,
7th July 1904.

Sir,

I am directed by the Secretary of State for India in Council to forward, for the consideration of the Secretary of State for Foreign Affairs, the enclosed copy of a letter from the Government of India, No. 65, dated 17th March 1904, and its enclosures, together with the connected papers* noted in the margin, and to make the following remarks.

* Enclosures in Foreign Secretary's letter, No. 18 M, dated 5th May 1904.
Note by Legal Adviser, India Office, dated 13th May 1904.
Political Resident in Turkish Arabia to Government of India, No. 555, dated 9th August 1893, ~~with enclosures.~~
~~Letter from ditto~~, No. 1728 E., dated 8th October 1894.

2. It will be observed that the Government of India in their letter not only submit their views upon certain points which have been raised regarding the status in Turkish Arabia of persons who are subjects of the Native States in India, but further take occasion to discuss the wider question as to the principles which should govern the status of such persons in foreign countries generally, and it seems to Mr. Brodrick most convenient to consider this wider question first.

3. In reference to it I am to say that Mr. Brodrick concurs generally with the Governor-General in Council in the desire to see the subjects of the protected states of India treated abroad with the same consideration as the British Indian subjects of His Majesty, and he agrees entirely with the opinion that for this no formal consent of the rulers of those states is needed, nor is it desirable to seek it. But on the other hand it must be borne in mind that, though in recent times the British Government has, owing to the exigencies of the position, drawn to itself the exercise of the entire external sovereignty and of particular portions (in some instances even the ~~great~~ yet bulk) of the internal sovereignty of the Indian Ruling Chiefs, ~~the~~ British Parliament, the British Indian legislatures, the Courts in England and India, and the British authorities political and administrative have, down to the present moment, continued to treat the territories of those Chiefs as states lying beyond His Majesty's dominions, and the people of those territories as being the subjects of those Chiefs and not British subjects in the proper sense, though they or their rulers may be said to owe to the British Crown loyalty or allegiance in the wide meaning of these words.

I am to add that Mr. Brodrick is advised that a definition of "British subject," like that in Clause 3 of the Ottoman Order of 1899, referred to by the Government of India, involves no departure from that view—that it is merely a device adopted by the draftsman with a view to convenience of drafting in a case where those responsible for the Order consider that His Majesty has in some way or other acquired as against a foreign state the right to exercise within its territories, in respect of the subjects of Indian Native States, the same powers that He possesses in respect of British subjects. Its effect is not to convert the subjects of those states into British subjects but simply to put them, for the particular purposes of the Order, and in so far as an order of the kind can do so, on the same footing as British subjects.

4. This being the position, it appears to Mr. Brodrick that Lord Elgin's Government were right in holding in their letter of the 8th October 1894 (referred to in paragraph 2 of the Government of India's letter now under consideration), that Sir T. Sanderson's letter to Mr. Martin of the 21st June

14806. I. 1908. 56.—4/1904.

Appd. Comtee. 28 June 1904

Appd. Council 5 July 1904



1893 governed the case of subjects of Indian Native States in countries like the Ottoman dominions, and that it is, from the very nature of the position, impossible for us, in dealing with such persons, to escape from the limitations mentioned by Sir T. Sanderson.

5. It does not, however, I am to say, follow from this that the subject of an Indian Native State would, when in a foreign country, be left without adequate protection. Having regard to the relations existing between the British Government and that State he would, Mr. Brodrick presumes, be in a position to claim from us in any foreign country, whether in the Eastern or in the Western World, at least full "protection" in the more limited and proper sense in which the word is usually understood in States of the Western type, subject only to the exception as to statutory provisions mentioned by Sir T. Sanderson, which in his case would not be likely to be important, nor could our diplomatic and consular agents refuse to extend such protection to him, except in cases in which they would deny it to a British subject. Further, as our claim to extend protection of this sort to such a person stands on grounds independent of any sort of concession by a foreign State, Mr. Brodrick presumes that no foreign state would be likely to dispute it.

6. Assuming this to be so, it would be only in regard to the further measure of protection exercised in foreign states of the Eastern type—that is to say in regard to special privileges, the right to exercise extensive foreign jurisdiction and the like, for which we should have to rely on treaty, capitulation, grant, usage, sufferance, and so forth, that there would be room for any question, and it would be impossible to say, without making detailed inquiries, in what foreign countries and in regard to what classes of persons under our protection, our claim to exercise this further measure of protection has been, or is likely to be, disputed, and how far hardship or inconvenience has arisen, or is likely to arise, from this. It may be that there are places where our claim has not yet been recognised, and where it would be desirable for us to assert it or press for a concession; but Mr. Brodrick would be averse to the formulation of any principle which would commit us to taking this course everywhere, and in regard to all classes of persons under our protection. No doubt, as a rule, the grounds on which such a claim is recognised in the case of His Majesty's subjects, apply equally in the case of persons under His Majesty's protection, but this is not always so. Again, there are classes of persons entitled to our protection, but who do not choose to claim it, and whom it may be best to leave to their own devices. Further, there are some tribes on the confines of India whom we regard as in some sense under our protection, or at least within our sphere of influence, but whose position with reference to us is not as yet clearly defined, and in regard to which questions of difficulty might arise. For these reasons Mr. Brodrick would prefer to wait and deal with each case as it arises with reference to its particular circumstances.

7. To turn now to the questions raised in Baghdad. Mr. Brodrick thinks it is by no means improbable, having regard to what is said in the enclosures to the Government of India's letter, and in the letter of the 22nd February 1904 from the Judge of the Supreme Consular Court at Constantinople, that any objections which have been raised to our claim to exercise, in respect to subjects of the Indian Native States and others under our protection, the powers and jurisdiction which the Ottoman Order in Council of 1899 assumes us to possess, are simply the result of the ignorance or want of intelligence of the Turkish local officials; and the course he would accordingly propose to take, unless indeed Lord Lansdowne feels any doubt as to the correctness of the assumption made in the Order in Council, is to request the Government of India to instruct the Consul-General at Baghdad that if in the ordinary course any case of the subject of an Indian Native State or other protected person comes before him to which the Order in Council applies, and which seems to him in other respects a proper one to be dealt with under that Order, he should not hesitate so to deal with it; and that if any serious difficulty is raised by the local officials he should consult the Judge of the Supreme Consular Court.



8. The questions referred to in the correspondence as to the acquisition by persons under British protection of the Turkish nationality, and as to the holding of land by persons who have not acquired that nationality, are collateral matters, as to which Mr. Brodrick does not propose to issue any instructions unless they should present themselves in a more definite shape; but, seeing that the Turks possess a regular naturalisation law, the former question ought to be a simpler one than it is in other Oriental countries.

(Sd.) A. Godley





(176)

Departmental Draft –

Not accepted by Pol. Comee

The U. S. of S.
F.O.

Sir,

I am directed by the Secy. of St. for India in Council to request that you will submit for the consideration of the Secy. of St. for F.A. the enclosed copy of a letter from the Govt. of India on the subject of the status in Turkish territory of subjects of the Native States in India.

Lord Lansdowne will see that the question has been raised by H.M. Consul General at Bagdad with special reference to the case,



Cases of certain subjects of the Maharaja of Kashmir residing in Turkish Arabia.

The instructions by which the Consul General at Bagdad is guided in dealing with [such] cases, are based upon ~~contained in~~ the F.O. Circular of 3rd July 1893, which was issued after consultation with the Law Officers of the Crown with reference to a question as to the status of natives of N. Bengal. Since that date, however, the position appears to have altered, so far as the Turkish dominions are concerned, in consequence of the issue of the Ottoman Order in Council of 1899, which (Art. III) includes under

[illegible]

?

[illegible]



(177)

under the definition of "British "subject" all natives of British protectorates, and especially "all "subjects of the several Princes "and States in India" [Foreign Jurisdiction Act (1890) sec. XV.]

Mr. Brodrick concurs in the view of the Govt. of India as to the desirability of ~~extending~~ giving to the subjects of Native States in India, residing in the Ottoman Dominions, the same measure of protection that would be accorded to a British Indian subject of H.M.

With regard to the question

of

[illegible]



of the method of
giving effect to their views, should
it commend itself to Lord Lansdowne,
Mr. Brodrick would be disposed
to prefer the second alternative
suggested in the 6th paragraph
of the Govt. of India's letter.

[illegible]

With regard to the 7th paragraph
Mr. Brodrick agrees with the
Govt. of India in their objection
to solving ~~the~~ any difficulty that may appear to be presented by Art. V (cl. iv) of the
Order in Council, by executing
formal agreements with the
Native States. It appears to
him that subjects of the Native
States in India come under Art. V
(cl. i) as defined by Art. III: and
that no delegation of jurisdiction is necessary having regard to the relations between the British Govt. and the Native States. (?) 13 May/04
A copy of a memorandum
by the Legal Adviser to this Office
is enclosed.



The question raised has two sides political and legal, and the letter of the S. of S. indicates to my mind that Foundation of Foreign Office experience which was predicted when the post of Deputy Secy was blocked for many years to aspiring So-dees.

It is no light matter, and I judge from experience in the Indian P.A. Dept, to break down the distinction between British and protected persons. E.g. there are numbers of Persians whom we could not easily protect in Persia, and those to whom we gave passports we select carefully. How are we to judge about protected persons? Lord Cromer constantly complained about passports given for Egypt, and those most complained about were given under lax supervision to protected persons or rather persons from a protectorate. Who can speak about a Kanjuti or Bajauri, and would it be wise to hold that latter should be protected as a matter of course in Kashgar? What is our own experience in Foreign territory? It varies with the territory. In Siam we carefully restrict our protection even in case of British subjects. In other places we compel British subjects to register



elsewhere. To be brief, a British subject has
a right to protection abroad, and yet even in his
case we require [proof of his right by] a Birth certificate &c. and other
formalities and safeguards. A protected person has no
right but a privilege, and an extension of the privilege
depends upon a variety of circumstances. If a passport
holder misbehaves abroad, let us at least know whether
he is a British subject or a quasi or semi British
subject alone protected [he might find it convenient to plead
that the culprit was not a British subject]
as to law, there is no doubt. Give what protection you
will and may, the subject of a native state or
protectorate never can be a "British subject". Treat
him as such you may, if the Foreign powers
agree (and both Russia and Turkey have refused to
agree); but your treatment will not alter his
legal status. I would prefer the draft.

30.v W. Lee-Warner



(179)

Sir

I am directed by the S. of S. for India to forward for the consideration of the Marquess of Lansdowne the enclosed letter No. 62 d. 17 of March 1904 from the Govt of India.

2. ~~The Govt of I.~~ Mr Brodrick generally concurs with the G. G. of I in C in the desire to see the subjects of the protected states of India treated abroad with the same consideration as the subjects of His Majesty in British India, and he agrees entirely with the opinion that no formal ~~[illegible]~~ [illegible] consent of the rulers of the Indian native states is needed. At the same time it must be borne in mind that the subjects of H. M. and those of native states are under different conditions [illegible] ~~that~~ the Foreign Govts in granting passports have fuller means of ascertaining the character and status of British subjects than they have in the case of those who owe allegiance to the ruling princes ~~who enjoy to a larger or less degree internal sovereignty~~. There are also on the confines of India certain [illegible] races or tribes whose status has been disputed by the neighbouring foreign powers whether Turkey, China, or Persia, and those powers would probably object to the grant of privileges ~~[illegible] conceded~~ to British subjects which might be ~~claimed~~ for members of these races. On the whole, therefore, it seems desirable to preserve [illegible] on the face of any passports granted, [illegible]



distinction set forth in 1893 between British subjects & protected persons. The question is however one which must arise in the case of other protectorates under the Foreign or Colonial Offices, & Mr Brodrick would be glad to know whether any objections have been raised to the present classification.

In conclusion it appears to him that a great difference must exist even in India between [illegible] and the treatment of them as subjects by a foreign Power [illegible] the various protected states & [illegible] more convenient to deal with specific instances in which an improper treatment of protected persons is alleged rather than [illegible] the general question.

I have

× [illegible]

33



Heading – Draft letter to Foreign Office

Print the draft 21/6/04

(33)

1. I am directed by the Secy of St. for India in Cl to forward for the consideration of the Secy: of St: for F.A. the enclosed copy of a letter from the G. of I. no. 65 of 17.3.04 & its enclosures together with the connected papers noted in the margin & to make the following remarks.

2 – It will be observed that the G. of I. in their letter not only submit their views upon certain points which have been raised regarding the status in Turkish Arabia of persons who are subjects of the Native States in India, but further take occasion to discuss the wider question as to the principles which should govern the status of such persons in Foreign Countries generally & it seems to Mr B. most convenient to consider this wider question in the first –

14600
I 1202

The Under Secretary of State,
Foreign Office



3. In reference [illegible] I am to say that x Mr B. concurs generally with the G.G. in C. in the desire to see the subjects of the protected States of India treated abroad with the same consideration as the British Indian subjects of H.M.; & he agrees entirely with the opinion that for this no formal consent of the rulers of those States is needed, nor is it desirable to seek it. But on the other hand it must be borne in mind that, though in recent times the British Govt: has, owing to the exigencies of the position, drawn to itself the exercise of the entire external sovereignty & of particular portions x (in some instances even the great bulk) of the internal sovereignty of the Indian ruling chiefs, the British parliament,

x Sir Lee Warner's ~~[illegible]~~ draft



(181)

the British Indian legislatures, the Courts in England & India & the British authorities political & administrative have, down to the present moment, continued to treat the territories of those chiefs as States lying beyond H. M's dominions, & the people of those territories as being the subjects of those chiefs & not British subjects.

[Margin note: in the proper sense of [illegible]; though they or their rulers may be said to owe [illegible] British Crown [illegible] or loyalty in the wider sense of the words]

I am to add that Mr B. is advised that a definition of "British subject" like that in Cl: 3 of the Ottoman Order of 1899 referred to by the Govt. of India involves no departure from that view – that it is merely a device adopted by the draftsman with a view to convenience of drafting in a case where those responsible for the Order consider that H. M's ~~[illegible]~~ has in some way or other acquired as



against a foreign State
the right to exercise within
its territories in respect
of the subjects of Indian
Native States the same
powers that it possesses
in respect of British
subjects — Its effect is not
to convert the subjects of
those States into British
subjects but simply to
~~[illegible]~~
~~[illegible]~~ put them,
for the particular purposes
of the Order & in so far
as an Order of the kind
can do so, on the same
footing as British subjects —
4 — This being the position,
it appears to Mr Brodrick
that Col: Elgin's Govt. were
right in holding in their
letter of the 8.10.94 (referred
to in para. 2 of the G. of I's
letter now under consideration)
that Sir T. Sanderson's
letter to Mr Martin
of the 21.6.93 governed
the case of the subjects
of Indian Native States in
countries like the Ottoman

المرجع: IOR/L/PS/10/24 حق النشر: رخصة حكومة مفتوحة
اعرض على مكتبة قطر الرقمية: http://www.qdl.qa/العربية/archive/81055/vdc_100026274741.0x0000a8



(182)

dominions, & that it is, from the very nature of the position, impossible for us, in dealing with such persons, to escape from the limitations mentioned by Sir T. Sanderson –

5 – It does not however, I venture to say, follow from this that the subject of an Indian native state should when in a foreign country be left without adequate protection. – Having regard to the relations existing between the British Govt: & that State, he would, I presume, be in a position to claim from us in any foreign country whether in the Eastern or in the western world, at least full "protection" in the more limited & proper sense in which the word is usually understood in States of the western type, subject only to the exceptions as to statutory provisions mentioned by Sir T. Sanderson, which in his case would not be likely to be important – nor clash # diplomatic



& consular agents refuse
to extend such protection
to him except in a case
in which they wd deny it
to a British subject — Further,
as our claim to extend protection
of this sort to such a person
stands on [illegible] independent
of any sort of concession
by a foreign State, Mr B.
presumes that ~~[illegible]~~
no foreign State wd be likely to
dispute it —

6 – Assuming this to be so, it
wd be as[illegible] in regard to the
further measure of protection
exercised in foreign States of the
Eastern type that is to say
in regard to special privileges,
the right to exercise extensive
foreign jurisdiction & the
like, ~~[illegible]~~ for which we had
have to rely on treaty, capitulations
[illegible] usage sufferance
& so forth, that there wd
be room for any ~~[illegible]~~ [illegible] that
& it wd be impossible to say,
without making detailed
inquiries, in what foreign
countries & in regard to
what classes of persons
under our protection ~~the~~
~~question wd be likely~~ to



(183) (184)

~~[illegible]~~
our claim to exercise this further measure of protection has been or is likely to be disputed, & how far hard-ships or inconvenience has arisen or is likely to arise from this — It may be that there are places where our claim has not yet been recognized & where it wd be desirable for us to assert it or press for a concession; but Mr B. wd be averse to the ~~[illegible]~~ formulation of any principle which wd commit us to ~~[illegible]~~ claim everywhere in regard to all classes of persons under our protection — No doubt, as a rule, the ~~[illegible]~~ grounds on which such a claim is recognized in the case of ~~our own~~ H.M.'s subjects apply equally in the case of H.M.'s persons under ~~our~~ protection, but this is not always so ~~the case~~ — Again there are classes of persons entitled to our protection but who do not choose to claim it, & whom it may be best to leave to their own devices — Further there are some tribes on

Lee-Warner agrees



the confines of India whom
we regard as in some sense
under our protection or at
least within our sphere of
influence, but whose position
with regard to us is not as
yet clearly defined, & in
regard to which questions
of difficulty might arise.
For these reasons Mr B.
wd prefer to deal with each [illegible]
case as it arises with reference
to its particular circumstances

7. To turn now to the
questions raised in Baghdad
Mr B. thinks it is
by no means improbable,
having regard to what is
said in the enclosures
to the Govt: of India's letter
& in the letter of the 22.2.04
from the judge of the Supreme
Consular Court at Constantinople,
that any objections which
have been raised to our
claim to exercise, in respect
to subjects of the Indian
native states & others
under our protection,
the powers & jurisdiction
which the Ottoman
Order in C: of 1899 assumes



(184) (372)

as to ~~that the~~ process, are
simply the result of the
ignorance or want of intel-
ligence of the Turkish
local officials, & the
course he would accordingly
propose to take, unless
indeed Sec: S. feels any
doubt as to the correct-
ness of the assumption
made in the O. in Cl.,
is to request the G. of I.
to instruct ~~[illegible]~~ the
Consul General at Baghdad
that if in the ordinary
course any case of the
subject of an Indian Native
State or other protected
person comes before him
to which the O. in Cl:
applies, & which seems to
him in other respects
a proper one to be dealt
with under that order,
he should not hesitate so
to deal with it; & that
if any serious difficulty
is raised by the local
officials he should consult
the Judge of the Supreme
Consular Court.

8. The questions referred to
in the correspondence as
to the acquisition by persons
under ~~[illegible]~~ British protection



of the Turkish nationality & as to the acquisition of land by persons who have not acquired that nationality are collateral matters, as to which Govt of I. does not propose to issue any instructions unless they present themselves in a more definite shape; but, seeing that the Turks possess a regular naturalization law, the former question ought to be a simpler one than it is in other Oriental countries

[illegible]

16.6.06

16.6.04

Dear Bayley

I send you the draft I have prepared in regard to that reference from Baghdad – I do so because the matter is complicated & so it might be well if we were to discuss it together some time before the next Committee

Yours ...

D Fitzpatrick

Seen by Sir S. Bayley 17.6.04



16.6.04



It appears to him that the administrative systems of the various native states vary so considerably that no general rule can be applied to all. In a state under British management the subjects may well claim to receive the privileges of British subjects in the matter of the grant of passports & protection abroad. A further distinction might be made by foreign powers which might require in the case of [illegible] state [illegible] stronger proof of the status claimed than they would in the case of the subject of a [illegible] state. In these [illegible]





(187)

1. To take first the points referred to in Sir W. Lee-Warner's note of 30.5.04, I need hardly say that I agree with him that it cannot be contended that the Subject of one of the Native States is a British Subject.

2. As to the danger of committing ourselves to any sort of general undertaking to extend or attempt to extend ~~[illegible]~~ to the Subjects of every Native State when they are in a foreign country the protection to which British Subjects are entitled there, I am not in as good a position to speak as Sir Wm: Lee-Warner, but I agree with him that it would be unwise to commit ourselves to anything of the kind as regards protection in that very wide sense, in which the word is understood in Eastern Countries & in which it is used by the Govt: of India in their present Despatch — that is to say as including as its most prominent feature the exercise of a large mass of what we call foreign



jurisdiction —
I say "as regards protection in
that very wide sense" because
it seems to me (& I understand
from Sir W. Lee-Warner that he
agrees with me) that where a subject
of a native State, being in a
foreign country, whether Eastern
or Western, applies to our diplomatic
or consular authorities there
to afford him protection in the
very limited sense, in which the
word is always understood in
Western countries, they c^d
scarcely refuse his application
except where they w^d refuse a
similar application from a
British subject —
I may add ~~here~~ there; in order avoid
recurring to this limited
protection again, that I believe
it w^d be admitted by all
authorities that no foreign State
c^d properly object to our extending
such protection to subjects of the
native States, the external
sovereignty of which is entirely
in our hands; but I sh^d be glad
to know from the political dep^t
of the F.O. whether any such



objection has ever been taken.
3. I turn next to the arguments in the Govt: of India's despatch which I think we ought to deal with in our reply to that govt:; & to begin with the objection taken in the despatch to the two limitations mentioned in Sir T. Sanderson's letter of 21.6.93 – if I rightly understand those limitations they are so obvious that they would hardly need to be stated except as a matter of caution in replying to one of the outside public –
If a statute is by its terms confined to British subjects it obviously wd not apply to subjects of Native States who are not British Subjects – And as regards the other limitation. it is almost equally obvious that though, as I have said above, every foreign State wd, having regard simply to the nature of the position, be bound to admit our claim to extend to the subjects of the Native States protection in the more limited sense above referred to, it wd be in no way bound to permit us to go

(persons, who are)



further & in particular to exercise extensive foreign jurisdiction over such persons unless it had expressly or tacitly conferred on us a right to do so – It might perhaps as a rule be fairly argued that where a foreign State has conferred on us a right of this sort in the case of our own subjects it wd be only reasonable that it shd confer on us a similar right in the case of the subjects of the Native States; but there may be cases where this wd not hold good, & at all events it wd be vain for us to contend that a right, which has been acquired only in respect to our own subjects, is applicable in the case of persons who are not our subjects –

4 – Next as to the definition of "British Subject" in clause 3 of our Ottoman Order in Council on which the ? of India rely – it must be remembered that a definition of that sort is merely a device of the draftsman for the purpose of avoiding

(81)

the repeated enumeration of particulars which wd otherwise be necessary & which wd make his Draft longer & more difficult to read — It is like e.g. the definition of "horse" which we put into our Glanders & Farcy Act 1879 & which included animals that are not horses — It wd not turn the subject of a native state into a British subject but wd merely cause him to be treated for the purposes of the order in the same way as a British subject wd be — In one respect no doubt the definition in the order is important — namely that we may feel confident that it wd never have been inserted unless those responsible for the order had satisfied themselves that in some way or other we had acquired as against the Turkish Govt:— possibly by mere usage acquiesced in by them — a right to exercise in the case of subjects of the native states the foreign jurisdiction so provided for by the order; but this wd not



helpers of the Turkish Govt: denied that we had acquired that right - we shd. then have to argue the point out on the merits with them relying on some treaty, usage sufferance or as the case might be
5 - This brings me to my last point which is this - that it seems very doubtful from the correspondence submitted whether the Turkish Govt: at Constantinople wd. deny the right in question -

The Major Newmarch, who I may observe is not a very clear-headed man & not a very judicious one, writes in a general way that the local officials of the Turkish Govt: "in this part of the Turkish empire oppose the British protection of Kashmiris"; but when he comes down to particulars all he tells us is as follows -

(1) that some official in the local land dept: while admitting that Kashmiris & Afghans are under our protection, said something



(190)

which, so far as it is possible to understand it, seems to mean that any of them coming into Ottoman territory wd become Ottoman subjects, which wd of course be absurd, especially as the Turks are so far advanced as to possess a regular naturali-zation law —

(2) That there is a prohibition against Kashmeeris & Afghans acquiring immoveable property unless they become Ottoman subjects — a prohibition [struck] which (assuming it to exist) I may observe, whatever may be thought of the reasonableness of it, could in no way affect the question before us.

On the other hand it is to be gathered from the letter of 22.2.04 from the Judge of the Supreme Consular Court at Constantinople, so far as it goes, that there is no danger that the responsible Turkish Authorities at Constantinople wd question the jurisdiction assumed by our order in Cl: —

6 - I think it wd be well to ask the F.O. whether it is safe to assume that the order in Cl: is fully



warranted in the respect referred to & whether it has up to this passed unchallenged – If the F.O. replies to these questions in the affirmative then what I wd suggest is to prepare a letter to the Govt: of India based on this note & Sir W. Lee-Warners & winding up by telling them ~~[illegible]~~ to instruct Major Newmarch that if in the ordinary course any case comes before him to which the O. in C: applies ~~[illegible]~~ & he considers it proper to deal with it he shd do so without hesitation, & that if any ~~[illegible]~~ ^serious^ difficulty is raised he had better consult the judge of the Supreme Consular Court

7 – A more difficult question is whether Major N. shd compel his justiciables to register under Cl: 165 of the Order & encourage them to bring their cases before him as he seems inclined to do – This is a question of policy on which it might be well to have Sir N. O'Conor's opinion

D. F. S.
3.6.04



No. 65 of 1904.

GOVERNMENT OF INDIA.

FOREIGN DEPARTMENT.

EXTERNAL.

To

THE RIGHT HON'BLE ST. JOHN BRODRICK,
His Majesty's Secretary of State for India.

FORT WILLIAM, *the 17th March 1904.*

SIR,

We have the honour to enclose copies of the papers noted in the accompanying list about the status enjoyed in Turkish territory by the subjects of Native States in India, and to submit, for your consideration, our views as to the attitude that we should in future adopt in regard to this subject in general, and as to the instructions that should be issued for the guidance of the Political Resident in Turkish Arabia in reply to his reference.

2. When the same question was raised by our Political Resident at Baghdad in 1894, the Government of India,* basing their instructions on the Foreign Office Circular, dated the 3rd July 1893, explained that the "persons entitled to the protection of Her Majesty's representatives in Turkish Arabia may be divided into two classes, *viz.*,—

"(*a*) British subjects who are entitled to all the protection which can be afforded them; and

"(*b*) persons enjoying Her Majesty's protection whose rights have been generally defined in the Foreign Office Circular, dated the 3rd July 1893. The latter category includes all subjects of the several Princes and States in India, and such persons must, therefore, be treated as only entitled to protection under the Foreign Office Circular, and not as British subjects, whether they come from Kalat, Kashmir, Hyderabad, or elsewhere".

It is on the subject of the limitation imposed by the Foreign Office instructions that we now address you, since we regard it as of importance that we should extend to the subjects of a protected Native State the same degree of protection as we claim to exercise in the case of British Indian subjects of the Crown.

3. Although the question has been raised in the present instance with particular reference to the subjects of one of the protected States of India in the Ottoman Dominions, it is one that affects the attitude of the Government of India in the case, for example, of Bajauris or Kashmiris in Kashgar, and also of His Majesty's Government towards the subjects of foreign States under British protection in other parts of the world. A protected State is one that has parted with all freedom of action in foreign affairs, and can have no direct relations or intercourse of any kind with another State, except through, or with the permission of, the protecting State, which thereby assumes a direct responsibility for the discharge of certain obligations. The logical sequence seems to us to be that the protecting State must represent

* Letter No. 1799 E., dated the 8th October 1894.



the protected State in all matters in respect of which the latter has surrendered liberty of international action, and, among other obligations, assumes entire responsibility for the protection of the subjects of such State abroad in the same degree as in the case of its own subjects. This doctrine is accepted by Germany, and German law goes so far as to allow the subjects of German Protectorates to be placed by Imperial ordinance on the same footing as German subjects with regard to the right of flying the Imperial flag. France has on more than one occasion claimed similar privileges in the case of persons who are not even the subjects of a State protected by her. Till recently His Majesty's Government has regarded the natives of their Protectorates as within the category of simple foreigners, but the Ottoman Order in Council of 1899 and section 15 of the Foreign Jurisdiction Act of 1890 are indications that there is a tendency to extend to them more and more the principle accepted by Germany.

4. Turning now to a consideration of the narrower issues with which we are immediately concerned, there are, it seems to us, two aspects of the question, the British and the international. From the point of view of the British law, there is, we think, no room for doubt, having regard to the definition of "British subject" in clause 3 of the Ottoman Order in Council, 1899, and the provisions of section 15 of the Foreign Jurisdiction Act, 1890, that, so far at least as concerns India, the subjects of the several Princes and States in India are "British subjects" within the meaning of the Order in Council. From the international point of view the case is not, perhaps, quite so clear; but it is, we consider, sustainable. His Majesty's jurisdiction in the Ottoman Empire is based, primarily, on the Capitulations, and there seems to be nothing either in the Act or Order in Council to require any differentiation in the matter of jurisdiction between the subjects of Native States in India and ordinary British subjects, unless it can be shown, with reference to the Order in Council, that, in the case of the former, jurisdiction has never been conceded to His Majesty by "treaty, capitulation, grant, usage, sufferance, or other lawful means". Indeed, it would seem that, if the Order in Council applies to British Indian subjects, and if we can claim to afford protection to these, it applies with equal force to "a native of any Protectorate" of His Majesty. It is possible that in 1809 the intention may have been to apply the provisions of the capitulations to "subjects of England" only (including, of course, such subjects in British India), but the views now gaining ground, and already adopted by Germany, were, we believe, unheard of then. Our relations with the Protected States have altered very materially in the past hundred years; and the Porte knows nothing to-day, internationally, of Hyderabad or Kashmir, except that they are under the protection of His Britannic Majesty.

5. We desire, in these circumstances, to urge upon His Majesty's Government the importance of laying down the principle that we may require the recognition by the Porte of the subjects of Indian Native States as falling within the category of British subjects, as defined in the Order in Council of 1899, irrespective of the question whether such recognition has in the past been accorded or not. If the assent of the Porte cannot be obtained in the case of such persons who may have acquired landed property and have permanently settled in the Turkish dominions, it might be sufficient to exclude such cases. At the same time we think that our officers should be instructed as to the language that they should hold in such questions. If, for example, jurisdiction were claimed over a Kashmiri, it should probably suffice to assert that a subject of Kashmir, when out of India, and for the purposes of our Conventions with the Porte, must be regarded as a British subject; since it might be undesirable to assert generally that Kashmiris were British subjects.

6. His Majesty's Government will no doubt consider the question whether it will be advisable, if it be decided to act upon our suggestions, formally to address the Porte in the matter, or whether it will be preferable merely to authorise us to instruct our officers in the sense that we have indicated, and to await the occurrence of an instance in which the Turkish authorities may object to the proceedings taken in pursuance of our orders.



(192)

7. In conclusion, it is necessary to refer to, and dispose of, one point of detail which is raised in the correspondence which we enclose, namely, the suggestion, in paragraph 6 of Major Newmarch's letter of 2nd November 1903, that, in order to get over the difficulty presented by clause (iv) of Article 5 of the Order in Council, the Government of India should conclude formal agreements with the Native States on the subject. The adoption of this suggestion would, it seems to us, be most undesirable, as well as being entirely unnecessary. Even when there is, in such cases, no express delegation of power to the British Crown to legislate for the subjects of Native States abroad, such delegation is clearly implied by the fact that we have consistently protected such subjects when outside the territorial limits of the protected States. To abandon this assumption would, we think, be to weaken our general position as regards our feudatories in dealing with European Powers by admitting that a further express delegation was necessary. It may hereafter be necessary to obtain such a formal agreement from the Amir of Afghanistan, who enjoys a different status from that held by the Native States in India, if he should ask us to extend the protection of our Ministers and Consular officers abroad to his subjects instead of their good offices alone. We do not, however, desire at present to raise this question.

We have the honour to be,

Sir,

Your most obedient, humble servants,

Curzon

Kitchener

T. Raleigh

E. F. G. Law

[illegible]

A. T. Arundel

Denzil Ibbetson





193

List of Enclosures in Despatch No. 65 (External), dated the 17th March 1904, from the Government of India in the Foreign Department, to His Majesty's Secretary of State for India.

Serial No.	No. and date of paper.	From whom, or to whom.	Subject.
1	No. 702, dated the 2nd November 1903, with enclosures.	From His Britannic Majesty's Consul-General at Baghdad, to the Secretary to the Government of India in the Foreign Department.	Protection accorded in Turkish Arabia to certain classes of persons, who are not natives of British India, but are connected with Native States in subordinate alliance with His Majesty the King-Emperor.
2	No. 741, dated the 16th November 1903, with enclosures.	From ditto ditto ...	Ditto ditto ditto.
3	No. 24, dated the 7th January 1904, with enclosure.	From ditto ditto	Protection to be accorded to the property of a deceased protected British subject, in the event of the deceased dying intestate and in the absence of any claim for protection put forward by the heir or heirs.

Deputy Secretary to the Government of India.





(194)

1904.

FORT WILLIAM.

FOREIGN DEPARTMENT.

EXTERNAL.

No. 65, DATED THE 17TH MARCH 1904.

List of Enclosures.





(195) (42)

1904.

FORT WILLIAM.

FOREIGN DEPARTMENT.

EXTERNAL.

Enclosures of a letter to His Majesty's Secretary of State for India, No. 65, dated the 17th March 1904.





(196)

Encl. No. 1.

No. 702, dated Baghdad, the 2nd November 1903.

From—Major L. S. Newmarch, Political Resident in Turkish Arabia and His Britannic Majesty's Consul-General, Baghdad,

To—The Secretary to the Government of India in the Foreign Department.

Protection accorded in Turkish Arabia to certain classes of persons, who are not natives of British India, but are connected with Native States in subordinate alliance with His Majesty the King-Emperor.

I have the honour to address you in continuation of my letter No. 69, dated 9th February 1903, regarding the subject noted on the margin.

2. A few days ago at Kerbala two Kashmiris fell out: one threatened to kill the other at all hazards and subsequently repeated his threats in public. The other applied to the Consular Agent at Kerbala for protection. The Consular Agent confined the would-be assailant, recorded much evidence and referred to me for orders. After considerable hesitation, and seeing that the offender had been in confinement for several days, I directed his release. Nothing further has happened, neither party has preferred any complaint since and the matter is probably at an end. But the case involves many points which seem to me to be of importance.

3. Neither of these Kashmiris was registered, therefore under the provisions of the Ottoman Order in Council, paragraph 165 (12), I had the opportunity of declining to recognise them as British subjects. I did not take this opportunity however and would rather have had the opportunity of acting in the contrary direction, but there were certain considerations which made me think it more prudent to leave the matter alone.

In the first place the Turkish Government does not admit that Kashmiris are British subjects, and it even goes further, for its local officials in this part of the Turkish Empire oppose the British protection of Kashmiris, and they have forbidden Kashmiris to buy or sell immoveable property except on the condition of becoming Ottoman subjects.

In the year 1901 a Kashmiri at Kerbala wished to sell one-fourth of his house, but when he applied, in the way that is obligatory, to the Land Department for permission to do so he was told both verbally and in writing that "the people of Kashmir and Afghanistan are only under the protection of the British Government and as they have no King are considered as emigrants and being such are Ottoman subjects," and again he was informed in writing that "under orders received, persons who are Kashmiris and Afghans and wish to possess landed properties should as an obligation accept the Ottoman nationality."

4. Lately, I have come across several cases of Pathans and even Punjabis who have become Turkish subjects probably under the influence of the Nakib here or perhaps for reasons like the foregoing, *i.e.*, because their status as protected British subjects does not satisfy them.

5. The status of a protected British subject, who is a subject of a Native State in India, seems to me to be unsatisfactory. It is a very difficult and complicated subject, and the arguments connected with it are much better known to the Government of India than I could expound them. I do not wish to raise difficulties, but if any means could be found in India for giving such persons the full rights of British subjects, I think it would be very much to our advantage in a country like this.

I do not refer to those persons who come to settle here without any intention of returning to India, but to those subjects of Native States who come here temporarily, for purposes of trade, pleasure, pilgrimage or religion.

6. As regards the latter class, I think it would be of great advantage to them, to the States from which they come, and to the British Government if the rulers of their States (I am thinking of the larger States in Central India and Rajputana and of the Mysore States) would make some formal agreement with the Government of India that, out of India, their subjects should be regarded as British subjects. The Turkish Government would probably be unable to refuse to recognise such an agreement, and it might serve to bind the Native States concerned a little more closely to the Government of India. I



think it would be of advantage if even a beginning could be made in this direction, for the number of such persons who travel beyond India is yearly increasing (the Begum of Bhopal is said to be going to Mecca), and I think it would be well if, when abroad, they could feel that they were really British subjects, and not merely protected subjects.

Such protection is often unavoidably inadequate as, for example, in the case of Kashmiris here who are not allowed to buy or sell houses or lands.

7. To revert to the instance which has prompted this letter, I shall be glad to know whether I can try and dispose of such a case in the same way as if the parties were British subjects. I should also like to know whether I can entertain and deal with civil suits and criminal cases (1) between protected subjects, (2) between a British subject and a protected subject.

If I cannot deal with such cases, the Turkish Courts will probably begin by assuming and end by claiming this jurisdiction.

These are matters which should perhaps be referred by me to His Majesty's Ambassador at Constantinople, but I prefer to first indicate them to the Government of India as being in my opinion the course they would probably prefer.

Enclo. No. 2.

No. 741, dated Baghdad, the 10th November 1903.

From—Major L. S. Newmarch, Political Resident in Turkish Arabia, and His Britannic Majesty's Consul-General, Baghdad,

To—The Secretary to the Government of India in the Foreign Department.

In continuation of my letter No. 702, dated 2nd November 1903, regarding the status in Turkish Arabia of protected British subjects who belong to the States of the British Empire in India, I have the honour to submit herewith for the consideration of the Government of India the copy of a letter on this subject which I have just received from Muhammad Hassan Mohsin, His Majesty's new Vice-Consul at Kerbala.

2. This letter is quite spontaneous and has no connection with my letter to you of the 2nd November 1903. It seems that the difficulties I have brought to notice presented themselves to the Vice-Consul almost immediately on his taking charge of his office.

3. I have already instructed the late Consular Agent at Kerbala in accordance with Foreign Department letter No. 1739-E., dated 8th October 1894, and I will now explain that letter further to Muhammad Hassan Mohsin, but it will be seen that the questions on which he asks for instructions go considerably beyond the instructions already given.

No. 232, dated the 3rd November 1903.

From—Mirza Muhammad Hassan Mohsin, British Vice-Consul, Kerbala,

To—Major L. S. Newmarch, His Britannic Majesty's Consul-General, Baghdad.

I have the honour to enquire for my future guidance as to the extent to which protection can be afforded by Consular Officers to natives of British protected States such as Kashmir, Kabul, Hyderabad Deccan, etc.

2. At Kerbala there are hundreds of Kashmiris, the majority of whom do not hold any paper showing that they are British subjects, but as they know that Kashmir is a State under British superintendence so they claim protection or rather assimilation to all other British Indian subjects.

In the former case what protection means, what difference is there between a protected person and real subject, and what kind of paper is to be given to such persons to show that they are protected subjects?

3. According to the rules we have in hand those who do not hold registration certificates are not recognised as British subjects (even if they are) and are accordingly rejected. It follows then, that all Kashmiris who are of course without any certificate are to be entirely discarded. If so, then what becomes



of protection? In explaining the above complicated question I request that the following items should kindly be answered—

(1) Where should criminal or civil suits between two Kashmiris be tried, in the Turkish or local Court?

(2) Where should criminal or civil suits between a British subject and a Kashmiri be tried?

(3) Does a suit between a Turkish subject and Kashmiri which is tried in the Turkish Court require the attendance of the dragoman on behalf on the latter?

(4) Should the citation which the Turkish Courts usually serve on British subjects through their Consular officers be also served on Kashmiris with a view that they are either subjects or protected persons?

(5) Can a Consular Officer on the application of a Kashmiri, etc., for registration certificate or certificate of nationality grant the same?

The local authorities look upon such people as sheep without a shepherd and have therefore forbidden them from buying or selling any landed properties in the Turkish Dominions. I request that the required instructions thereon should be given in order that I may know how to deal with them in future.

No. 24, dated Baghdad, the 7th January 1904.

From—Major L. S. Newmarch, Political Resident in Turkish Arabia and His Britannic Majesty's Consul-General, Baghdad,

To—The Secretary to the Government of India in the Foreign Department.

I have the honour to submit, for the information and consideration of the Government of India, the accompanying letter regarding the estate of a deceased Kashmiri woman who lately died intestate at Kerbala.

2. I am not myself satisfied with the instructions I have given to the Vice-Consul at Kerbala, but some instructions appeared to be immediately necessary and these seem to me the best that I can devise until I hear further from the Government of India or His Britannic Majesty's Ambassador at Constantinople to whom I am submitting this correspondence.

3. It is not at all clear to me to what kind and what extent of protection the property of a deceased protected British subject is entitled, in the event of the deceased dying intestate and in the absence of any claim for protection put forward by the heir or heirs.

4. It would, I think, be inexpedient to have any dispute with the Turkish authorities on this subject and equally inexpedient to alienate the Mujtahids by any dispute with one of their number in such a case.

5. I am most reluctant to bring forward this question, and I would gladly leave it alone if possible, but it seems to me right to bring this case to the notice of the Government of India, if only that it may be recorded for future consideration.

At the same time, although such matters look relatively small in India or in England, they look comparatively large here, and our action in connection with them has a considerable local effect which to some extent touches our prestige in these parts.

No. 23, dated the 7th January 1904.

From—Major L. S. Newmarch, Political Resident in Turkish Arabia and His Britannic Majesty's Consul-General, Baghdad,

To—Mirza Muhammad Hassan Mirza, British Vice-Consul, Kerbala.

I have the honour to reply to your letter No. 335, dated 19th December 1903, regarding a Kashmiri woman named Hajieh Fatmah.

2. It appears from your letter that she had been living in Kerbala for about eight years, and that on the 14th December 1903 she died there intestate and without heirs.



You ascertained that she died possessed of 11 Liras in cash and of clothes worth about 1½ Liras. Soon after she died, the Mujtahid Sheikh Muhammad Hussein Mazandarani, son of the late Sheikh Zein-ul-Abdin, and one of the recipients of the Oudh Bequest, took possession of her estate and sold by auction articles of small value belonging to the deceased.

In short he constituted himself the guardian and administrator of her personal estate without your knowledge and without reference to you. When you heard of this action on his part you sent your dragoman to him to claim in a very polite manner the custody of her effects and to tell him that according to the rules of your Government the property of the deceased should remain in your charge until it was disposed of as circumstances might require.

The Mujtahid replied that he was acting in accordance with the Shara Law and that the property should remain in his possession, as an authority of that law, until the heir to the property was discovered, and he retained possession of the property.

You have subsequently heard that the deceased has nephews, one in Khorasan, of whom nothing is known, and another named Haji Ali Kashmiri who claims to be her heir. This information is however at present only hearsay and has not yet been confirmed or proved.

You are of opinion that the conduct of the Mujtahid is unprecedented and should not be allowed to pass unnoticed lest his example should be followed in other cases.

3. The deceased was of course not registered as a British subject and was only entitled during her lifetime to such protection as is contemplated in the orders of the Government of India which were communicated to your predecessor in my letter* No. 44, dated 12th February 1903.

* This contained the substance of Foreign Office letter No. 1739-E., dated the 8th October 1894.

Her nephew Haji Ali Kashmiri, if he is really a Kashmiri, is entitled to the same protection under the same orders, but he has not yet asked for such protection.

4. In these circumstances your intervention appears to me to have been a little unfortunate, though it was prompted by the best motives. I think that the action of the Mujtahid is probably *ultra vires* and such as would not be recognised by the Turkish authorities, but it seems to me to be inexpedient for us to refer the matter to those authorities because that might raise the difficult question connected with protected subjects.

5. It seems to me that in the circumstances your best course is to visit the Mujtahid and tell him in conversation, of course quite politely, that you can in no way admit his claim to take charge of the property and that you only consent to the property remaining in his charge, because you know him to be a trustworthy guardian and because no heir is at present forthcoming. If any heir should subsequently appear before you and claim the property of the deceased, you should tell the heir that the estate is too small to call for your formal interference and that he should address himself directly to the Mujtahid, and failing to get satisfaction from him should apply to the Turkish authorities, which in disputes between British and Persian subjects are the proper tribunal.

6. In future and until I am in a position to give you more definite instructions you should avoid in all doubtful or disputed cases any interference with the estates of deceased protected British subjects, unless the heirs apply to you for help and you should then report the case in detail to me for orders.

G. I. C. P. O.—No. 2007 F. D.—20-5-1904—24—W. S. D'S.







199

1904.

FORT WILLIAM.

FOREIGN DEPARTMENT.

EXTERNAL.

No. 65, DATED THE 17TH MARCH 1904.

Letter to His Majesty's Secretary of State for India.

Status enjoyed in Turkish territory by the subjects of Native States in India.

Foreign Office Press—No. 267—14-3-04—41.



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